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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 4665/2024**

MANTHAN PASWAN @ MONU

.....Petitioner

Through: Mr. Sahil Malik, Mr. Aditya Jain, Mr. Abhishek, Mr. Kanav Gupta, Mr. Sahil Lakra, Mr. Nakul Khatri, Mr. Lalit Roma and Mr. Chetan Dabas, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Mukesh Kumar, APP.
Mr. Sanjay Pal. GP for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

30.01.2025

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1. This is the first bail application for regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023¹ in respect of FIR No. 0223/2024 under Sections 109(1), 221, 132, 121, 61(1)(a) and 3(5) of the Bharatiya Nyaya Sanhita 2023², registered at P.S. I.P. Estate, Delhi.

2. Briefly stated, the case of the prosecution is as follows:

2.1 On the statement of Constable Ramdas (Complainant) of P.S. IP Estate, Delhi, the aforementioned FIR No. 0223/2024 was registered against four accused persons including the Applicant. The Complainant stated that on

¹ "BNSS"

² "BNS"



14th July, 2024, after receiving DD No. 34, he left on his official bike for picket duty. At around 10:30 PM, Sujeet, the Pradhan of Valmiki Basti, called the Complainant and informed him that a group of individuals were seen near the public toilet at Valmiki Basti Chowk, drinking alcohol and smoking *bidis*.

2.2 Upon reaching the location on his bike, the Complainant saw several individuals drinking alcohol and smoking bidis. He instructed them to stop, cautioning them that public consumption of alcohol is a punishable offence. The group, however, responded with hostility, expressing their resentment and vowing retaliation before dispersing from the area.

2.3 The Complainant later identified the individuals as (i) Rohit, (ii) Manthan @ Monu (Applicant herein), (iii) Amjad, (iv) Ashish and (v) Virender Thapa @ Raju. All of these boys are residents of the Valmiki Basti, except for Virender Thapa @ Raju, who is a resident of Kotla.

2.4. Shortly after the initial encounter, the accused persons conspired to attack the Complainant. As he was preparing to leave on his bike, accused Rohit struck him on the face and head with a wooden stick with the intention to kill him. Rohit repeatedly struck the Complainant's face and head with the stick, while all the other co-accused, including the Applicant, shouted that the Complainant should not be allowed to live. The force of the assault caused the Complainant to fall from his bike, losing consciousness. Bystanders at the scene immediately alerted the police, and the Complainant was taken to a hospital for medical treatment.

2.5. Subsequently, during the investigation, CCTV footage from the area was recovered and analysed. The footage confirms involvement of all the aforementioned five accused persons. It captures Rohit brutally attacking



the Complainant with a stick and thereafter, all the accused fleeing from the scene of crime. All the accused persons jointly and in a pre-planned manner intentionally conspired to kill the Complainant in retaliation for being stopped from consuming alcohol in a public place. Pursuant to this plan, they attacked him with a stick before fleeing the scene.

2.6. On 15th July, 2024, accused persons – Manthan @ Monu (Applicant herein), Amjad, Ashish and Virender Thapa @ Raju were arrested and sent to Judicial Custody. Rohit evaded arrest and remained absconding despite multiple raids at his residence. Eventually, after this Court dismissed his anticipatory bail application, Rohit surrendered before the Court on 30th July, 2024. It is also relevant to note that the bail applications of two other co-accused, Ashish and Virender Thapa @ Raju, were dismissed by this Court.

3. Rebutting the case of the prosecution, counsel for Applicant argues that the FIR does not attribute any specific role to the Applicant herein – i.e., Manthan @ Monu. It is urged that the Applicant is a young man of 25 years, who has been in custody since 15th July, 2024, following his arrest. Pertinently, while the Applicant does not dispute his presence at the scene, Counsel for the Applicant emphasizes that the principal act of assault was committed solely by co-accused Rohit, who allegedly struck the Complainant with a stick. The prosecution's case against the Applicant rests on the allegation that he incited Rohit to attack the Complainant. Counsel further argues that although the prosecution contends that the Applicant was intoxicated at the time of the incident, no medical evidence has been placed on record to support this claim. Moreover, while the Complainant alleged that he was struck with a stick (*danda*), the injury noted in the MLC is



classified as ‘simple in nature.’ Additionally, there has been no recovery of any weapon at the instance of the Applicant. Since the investigation in the present case is complete and the chargesheet has already been filed, no purpose will be served by keeping the Applicant in custody any longer. Lastly, counsel assures this Court that if released on bail, the Applicant will abide by all conditions imposed and undertakes not to tamper with evidence or influence witnesses.

4. On the other hand, Mr. Mukesh Kumar, APP for the State, strongly opposes the present bail application. He points out that the CCTV footage recovered during investigation, clearly captures the sequence of events depicting accused Rohit brutally attacking the Complainant with a stick. The footage also shows Rohit along with the other accused persons fleeing from the scene of crime. Mr. Kumar contends that the CCTV footage establishes not only the assault but also the preceding events, wherein the Applicant can be seen consuming alcohol alongside the other accused. He asserts that the Applicant acted in furtherance of a common intention with Rohit, thereby making him equally liable for the attack on a police officer performing his official duty. The victim in the present case is a police officer who was discharging his duty in response to a complaint regarding public intoxication. Granting bail in such cases, Mr. Kumar submits, would have grave implications on the morale of law enforcement officers, who put their lives at risk daily to uphold law and order. Permitting individuals who have conspired to attack a police officer in such a brazen and premeditated manner to be released on bail would not only undermine the authority of the police but also send a disturbing signal to society.

5. The Court has considered the contentions of the parties. The Court has



also examined the material on record, including the MLC of the Complainant as well as the CCTV footage of the incident. The MLC records the injury suffered by the Complainant as *simple in nature*. However, the CCTV footage, *prima facie*, depicts a brutal assault on the Constable Ramdas, by an assailant wielding a stick. The prosecution has specifically identified this assailant as co-accused Rohit, and not the Applicant. While this Court does not, in any manner, condone acts of violence against law enforcement officers, it is also mindful that the allegation against the present Applicant is limited to his alleged common intention in furtherance of the assault. Whether the Applicant shared such common intention or played an active role in abetting the attack is a matter that must be tested during trial. Similarly, while the prosecution contends that the Applicant was intoxicated at the time of the incident, no MLC has been placed on record to substantiate this claim. In the absence of such material, this Court is not inclined to give undue weight to the prosecution's assertion regarding alcohol consumption in a public place.

6. The Supreme Court, in several judgments, has held that the bail is not to be treated as a punitive or preventive measure but rather as a means to secure the presence of the accused at trial. The purpose of pre-trial detention is not to inflict punishment before guilt is established³. As per the nominal roll, the Applicant has been in custody since 15th July, 2024 and has undergone 6 months as an under-trial as of 21st January, 2025. With the chargesheet already filed, the continued incarceration of the Applicant, would serve no purpose.

³ See: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



7. In light of the above, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty Metropolitan Magistrate, on the following conditions:

- a. The Applicant shall fully cooperate in any further investigation in the matter, as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
- g. The Applicant shall appear before the concerned IO on every Monday between 11:00 AM and 11:30 AM and will not be kept waiting for longer than one hour.

8. In the event of there being any FIR/DD entry/complaint lodged against the Applicant; it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

9. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence



the outcome of the trial and shall also not be taken as an expression of opinion on the merits of the case.

10. The bail application is allowed in the afore-mentioned terms.

11. A copy of the order be sent to the Jail Superintendent for information and necessary compliance.

SANJEEV NARULA, J

JANUARY 30, 2025

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