



2025:DHC:3142



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

% ***Date of decision: 30.04.2025***

+ BAIL APPLN. 4684/2024
DEEPAK

.....Petitioner

Through: Mr. R. P. S. Bhatti, Adv.

versus

THE STATE (GOVT OF NCT OF DELHI)Respondent

Through: Mr. Satish Kumar, APP for
State with SI Sandeep Kumar,
P.S. PIA, Delhi.
Complainant-in-Person.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J. (ORAL)

CRL.M.A. 38326/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 4684/2024

3. The present petition under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed seeking Regular Bail in FIR No. 805/2022 dated 23.12.2022 (Subject FIR) registered at Police Station Patparganj Industrial Area, East District, Delhi, for the offences punishable under Sections 392, 394, 397 and 34 of the Indian Penal Code, 1860 (IPC),



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BRIEF FACTS

4. The Subject FIR came to be registered on the basis of a complaint lodged by one Bhoran Singh, son of Virender Singh, resident of Kotla Mubarakpur, Delhi. As per the complaint, the complainant had arrived at ISBT Anand Vihar, Delhi, from his native village, Harpalpur, District Farrukhabad, Uttar Pradesh around midnight on the intervening night of 22/23.12.2022. He engaged an auto-rickshaw for a fare of ₹200 to proceed to his residence in Kotla Mubarakpur.

5. Shortly after the journey commenced, the auto-rickshaw driver picked up another passenger, which the complainant objected to. However, the driver assured him that the other passenger would alight shortly. The vehicle thereafter proceeded towards the intended destination.

6. According to the complainant, when the auto-rickshaw reached the area near Gate No. 1 of Akshardham Temple, in the vicinity of the Commonwealth Games Village, the vehicle came to a halt. The complainant stated that the driver requested his mobile phone, purportedly to check directions to the destination. The complainant accordingly handed over his phone to the driver.

7. What transpired thereafter was that the co-passenger allegedly caused injury on the left cheek with a knife and forcibly removed a transparent pouch from his shirt pocket, which allegedly contained ₹3,000 in cash, along with a photocopy of his PAN Card and his



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Aadhaar Card. The complainant states that on resisting, the driver also assaulted him with a knife and thereafter, the complainant was pushed out of the auto-rickshaw, following which the two individuals left the scene with the complainant's mobile phone, money, and documents.

8. A PCR call was received at around 2:00 AM on 23.12.2022, following which SI Sunil Kumar of PS Patparganj Industrial Area proceeded to LBS Hospital, where the complainant had been admitted *vide* MLC No. 7650/22, and the nature of injuries was later opined to be simple in nature. At the time, the complainant expressed his inability to give a formal statement due to pain. Subsequently, he visited the police station and recorded a detailed statement, on the basis of which the aforementioned FIR was registered.

9. During the course of investigation, on 02.01.2023, one Deepak (the petitioner) was arrested in connection with FIR No. 04/2023, registered under Section 25 of the Arms Act, 1959, at the same police station. During interrogation in that case, he is stated to have made a disclosure indicating his involvement in the present case. Upon verification, he was placed under arrest in FIR No. 805/2022 as well.

10. The petitioner did not participate in the Test Identification Parade (TIP) proceedings. However, he was stated to have been identified by the complainant during the course of police custody. The accused is further stated to have named one Aman as his associate, though no further details regarding Aman's whereabouts were



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forthcoming. Despite efforts, the said Aman could not be traced, and no recovery of case property was affected.

11. Following completion of investigation, a Charge-Sheet was filed against the petitioner on 06.03.2023. On 17.04.2024, charges under Sections 392, 394, 397 and 34 IPC were framed against him. During the trial, the complainant was examined and cross-examined, and is stated to have reiterated the allegations made in his initial statement, including identification of the accused.

12. The petitioner had previously moved a Bail Application before this Court on 06.09.2024, which was withdrawn, giving the petitioner the liberty to file afresh before the learned Sessions Court. The said application, however, came to be dismissed by the learned Additional Sessions Judge on 25.10.2024, compelling the petitioner to file the present petition.

13. The learned counsel for the petitioner submits that the incident in question is alleged to have occurred on 23.12.2022, and the arrest of the petitioner is shown to have been effected on 02.01.2023, not in connection with the present FIR, but in an independent case registered under the Arms Act. The petitioner was, thereafter, implicated in the present case on the basis of an alleged disclosure statement made on the date of his arrest. The learned counsel submits that as per the complainant, he visited the station 3/4 days after the incident in question and identified the petitioner, which is not possible as the timelines do not match.



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14. The learned counsel further submits that the complainant is stated, as per the Charge-Sheet, to have visited the police station on 14.01.2023, nearly three weeks after the alleged incident, and to have identified the petitioner while he was already in custody and present at the police station seems to be improbable.

15. He submits that no recovery of any incriminating article has been affected from the petitioner. The co-accused, allegedly involved in the commission of the offence, remains untraced and absconding; thereby further casting a shadow on the integrity and completeness of the investigation.

16. The learned counsel submits that the complainant, who is the principal witness in the case, has already been examined before the trial court. There being no other public witness to the incident, the likelihood of the petitioner interfering with the prosecution evidence is unlikely, if not altogether ruled out.

17. *Per contra*, the learned APP submits that during the course of the trial, the complainant has been examined and cross-examined, wherein he has supported the prosecution's version and correctly identified the petitioner. He submits that the material witness has already been examined and out of a total of 10 witnesses, 5 witnesses have been examined.

18. The learned APP submits that the petitioner is involved in the commission of a grave offence and that he is not having clean antecedents. Thus, the possibility cannot be ruled out that he may



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indulge in the commission of a criminal offence if released on bail. In these circumstances, the learned APP prays that the bail application be dismissed.

19. Having heard the learned counsel for the petitioner, the learned APP for the state, the complainant in person and perused the record, the primary allegation against the petitioner is that he robbed and caused injury to the complainant. Undoubtedly, the offence committed by the petitioner is grave and violent. The petitioner, being the passenger next to the complainant, attacked him with a knife and robbed him of his valuable belongings

20. The nominal roll of the petitioner reveals that he has been in Custody for a period of about 2 years and 4 months. The nominal roll further reveals that the jail conduct of the petitioner is 'satisfactory' and that he is involved in no other cases. Out of the 10 witnesses in the present case, a total of 5, including the material witness, have been examined.

21. Even though the complainant has opposed the bail application, he has stated that he has not received any threats from the petitioner after his arrest. The petitioner is 37 years old, who has a minor child, a wife and a mother to take care of at home. He is also the only earning and male member of his family.

22. This Court is of the opinion that no fruitful purpose will be served by the continued incarceration of the petitioner, especially when the complainant has been examined and the trial is likely to take



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some time to conclude.

23. Accordingly, in view of the entire conspectus of facts and circumstances as noted hereinabove, the Petitioner is admitted to Regular Bail pending Trial in the subject FIR, on his furnishing a personal bond in the sum of ₹30,000/- with two surety bonds of the like amount, subject to the satisfaction of the learned Trial Court / CMM / Duty Magistrate and further subject to the following conditions:

- i. The Petitioner shall not leave the NCT of Delhi without prior permission of the Learned Trial Court.
- ii. The Petitioner shall report at Police Station Patparganj Industrial Area, Delhi every Wednesday and Saturday between 4:00 P.M and 6:00 P.M. The concerned officer shall release the Petitioner after recording his presence and after completion of all the necessary formalities.
- iii. The Petitioner shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- iv. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v. The Petitioner is directed to give his mobile number to the Investigating Officer and keep it operational at



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all times.

- vi. The Petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case.
- vii. The Petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending Trial.

24. It is made clear that no observations made above shall tantamount to be an expression on the merits of the Petitioner's case and they have been made for the purpose of consideration of Bail alone.

25. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.

26. The Bail Application is disposed of in the abovesaid terms.

SHALINDER KAUR, J

APRIL 30, 2025/FRK

Click here to check corrigendum, if any