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

+ **BAIL APPLN. 4635/2025**

RAJESH @ KANASTER

.....Petitioner

Through: Mr. Amreek Singh, Ms. Kavita Kaur,
Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Hitesh Vali, APP for State with
SI S.K. Jha, PS-Roop Nagar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
01.12.2025

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1. This is the second application preferred by the Applicant seeking regular bail in FIR No. 143/2025 registered at P.S. Roop Nagar for offences under Sections 305/331(3) of the Bharatiya Nyaya Sanhita, 2023.
2. The Applicant had previously sought regular bail before this Court in BAIL APPLN. 3140/2025, which was dismissed by a detailed order dated 19th August, 2025, wherein the Court undertook a *prima facie* assessment of the material on record and declined bail. The said order reads as follows:

"1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (erstwhile Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 143/2025 registered under Sections 305/331(3)317(2)(5)/249/3(5)

¹ "BNSS"

² "Cr.P.C."



of Bharatiya Nyaya Sanhita (BNS), 2023 registered at P.S., Roop Nagar.

2. The case of the prosecution, in brief, is as follows:

2.1. A complaint was made by Rahul Gupta, alleging that on 7th May, 2024, theft had taken place in his house after breaking open the lock. Articles stolen included cash, foreign currency, gold, diamond and silver jewellery, as detailed in the complaint.

2.2. During the course of investigation, CCTV footage was recovered which depicted the Applicant along with another associate, arriving at the place of incident on a scooty, breaking the lock of the house, and thereafter entering the premises. Further investigation revealed that the suspects were present at Partapur, Meerut, U.P., where a raid was conducted. However, by the time the police reached, the suspects had fled with the assistance of co-accused Chandra Shekhar. It was found that Chandra Shekhar was providing shelter to the suspects and that he, along with his sons namely Harsh @ Kallu and Gautam, was engaged in the work of melting and casting jewellery. In his statement, Chandra Shekhar disclosed that the Applicant and his associate were known to him and that he, along with his sons, had melted the stolen ornaments. Out of the proceeds, he retained a 40% share, while the remaining 60% was kept by the Applicant and his associate.

2.3. The Applicant was searched and arrested on 30th May, 2025. At his instance, scooty which was allegedly used in the commission of the offence was recovered and from its trunk, certain gold-coloured ornaments and silver-coloured jewellery were also seized. On the basis of the above a chargesheet has been filed against the accused persons.

3. Counsel for the Applicant makes the following submissions in support of the Application

3.1. The Applicant has been falsely implicated in the present case.

3.2. Chargesheet has already been filed on 17th July, 2025, and therefore the Applicant's further custodial detention is not required for the purposes of investigation.

3.3. There is no incriminating evidence against the Applicant and that the very registration of the case amounts to a gross misuse of law by the State.

3.4. The Applicant's right to a speedy trial is being infringed, as the proceedings are not progressing in a timely manner.

4. On the other hand, Mr. Mukesh Kumar, APP for the State, opposes the application on the following grounds:

4.1. The Applicant is involved in commission of a serious premeditated offence.

4.2. Sufficient material has been collected during investigation which directly implicates the Applicant, including CCTV footage in which the Applicant and his associate are visible, and the recovery of the scooty used in the commission of the offence as well as certain gold-like ornaments, at



the instance of the Applicant.

4.3. *The Applicant has previously been involved in as many as 44 criminal cases, which demonstrates his propensity to re-offend and disentitles him from the relief sought.*

4.4. *One of the co-accused in the present case continues to remain absconding, which highlights the concerted and organized nature of the offence and heightens the risk of the Applicant absconding as well if granted bail.*

5. *The Court has considered the aforementioned contentions and perused the material on record. It is settled that the grant of bail is a matter of judicial discretion to be exercised on well-settled parameters, including the seriousness of the offence, the prima facie existence of reasonable grounds to believe that the accused has committed the offence, the likelihood of the accused tampering with evidence or influencing witnesses, and the antecedents of the accused.*

6. *The present case involves allegations of a premeditated act of theft in a dwelling, involving organised participation of multiple individuals, including the Applicant. The investigation has unearthed prima facie incriminating material against the Applicant. The CCTV footage collected during investigation, prima facie, depicts the Applicant along with his accomplice, approaching the place of incident on a scooter and breaking the lock and entering the house. Further, recoveries have been allegedly effected at the instance of the Applicant, including the scooter used in the commission of the crime and gold-like ornaments. These materials, taken together, provide sufficient ground at this stage to draw a prima facie inference regarding the Applicant's involvement.*

7. *The Court also cannot lose sight of the Applicant's criminal antecedents. Mr. Mukesh Kumar submits that the Applicant has previously been involved in as many as 44 criminal cases. While mere pendency of other cases may not by itself justify denial of bail, such a long history of criminal activity is a relevant factor which indicates the propensity of the Applicant to re-offend and also enhances the risk of his absconding or influencing the witnesses if released on bail.*

8. *Hence, having regard to the nature of the offence, the material unearthed during investigation and the Petitioner's previous involvement in the criminal cases, the Court finds no merit in the present application.*

9. *In light of the foregoing, the present bail application is dismissed. Pending application(s) are also disposed of.*

10. *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 also not be taken as an expression of opinion on the merits of the case."*



3. It is submitted that subsequent to dismissal of the aforesaid bail application, a co-accused, namely Rakesh @ Rinku @ Madari, has been granted bail by the Sessions Court on 19th September, 2025. On this premise, the Applicant again moved the Sessions Court invoking the principle of parity; however, the application was dismissed on 14th November, 2025.

4. Aggrieved, the Applicant has approached this Court again, seeking regular bail. It is contended that there is a change in circumstances, as the co-accused, with whom the Applicant claims to be on an equal footing, has now been granted bail. It is urged that even as per the prosecution case, the allegations and role of the co-accused and the Applicant stand on similar footing, and therefore, the Applicant is entitled to bail on grounds of parity.

5. Mr. Hitesh Vali, APP for the State, opposes the bail application. He submits that there is no change in circumstances since the rejection of the earlier application by this Court. It is further submitted that while granting bail to the co-accused Rakesh @ Rinku @ Madari, the Sessions Court did not take note of the dismissal of the Applicant's previous bail application in BAIL APPLN. 3140/2025. In such circumstances, it is urged that the principle of parity is not attracted. On merits, Mr. Vali submits that the Applicant stands on a distinct footing from the co-accused in view of the recoveries effected at his instance, including theft articles and the scooty allegedly used in the commission of the offence. He contends that the gravity of the offence and the incriminating material collected during investigation have already been taken note of by this Court in its order dated 19th August, 2025, and those findings continue to operate against the



Applicant.

6. The Court has considered the aforementioned submissions. The Applicant's earlier bail application was dismissed by this Court less than four months ago. Although an increase in the period of custody can, in a given case, constitute a change in circumstances, the present matter does not persuade the Court to take a view different from that recorded in the order dated 19th August, 2025.

7. As regards the plea premised on the principle of parity, the State has pointed out that the order granting bail to co-accused Rakesh @ Rinku @ Madari does not reflect any consideration of the rejection of the Applicant's own bail application in BAIL APPLN. 3140/2025, nor does it examine the comparative role and circumstances of the Applicant vis-à-vis the co-accused. In such circumstances, invocation of the principle of parity is misconceived.

8. In any event, even on facts, as rightly submitted by Mr. Vali, the case of the Applicant is distinguishable from that of the co-accused, particularly in light of the recoveries effected from the Applicant, which include the alleged stolen articles as well as the vehicle reportedly used in the commission of the offence. These distinguishing factors, along with the gravity of the alleged offences and incriminating material gathered during investigation, as noted in detail in the order dated 19th August, 2025, continues to remain relevant, and tilt against the grant of bail to the Applicant.

9. For the foregoing reasons, the Court finds no basis to entertain the present bail application. The application is, accordingly, dismissed.



10. It is clarified that any observations made herein are solely for the purposes of adjudicating the present application and shall not be treated as an expression of opinion on the merits of the case.

SANJEEV NARULA, J

DECEMBER 1, 2025

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