



2025:DHC:3910



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

% **Date of decision: 15.05.2025**

+ **BAIL APPLN. 4745/2024**

MOHD TABREZ

.....Petitioner

Through: Mr. Divyesh Pratap Singh with
Ms. Shivangi Singh and Mr.
Amit Sangwan, Adv.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Satish Kumar, APP for
State with SI Satyapreet, PS
Kalindi Kunj.
Mr. Syed Kamran Ali, Adv. for
R-2.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. By way of the present petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the petitioner seeks the grant of Regular Bail in FIR No. 80/2024 dated 06.03.2024 for the offence under Section 307 of the Indian Penal Code, 1860 (IPC) registered at Police Station Kalindi Kunj, Delhi (subject FIR)
2. The brief facts necessary for disposal of the present bail application are that the subject FIR was registered on the basis of GD Entry No. 81A dated 05.03.2024, wherein information regarding a



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quarrel near E-403, Khadda Colony, Jaitpur Extension, New Delhi, was recorded. The said GD Entry was marked to SI Sumit (Investigating Officer) for investigation. Upon reaching the spot, the Investigating Officer was informed that the injured persons had already been taken to Apollo Hospital for medical treatment. A car bearing registration No. DL8CAK1870 was also found at the scene in a damaged condition. Upon visiting Apollo Hospital, the Investigating Officer found three injured persons, namely Asif Choudhary, Kaif Mohammad, and Rizwan, who were undergoing treatment.

3. During the course of the investigation, the statement of Rizwan was recorded, in which he narrated that on 05.03.2024 at around 8:00 PM, while he was parking his Santro car (bearing No. DL8CAK1870) near the corner of his house, Afsan, who resides in his neighbourhood, came there and sat on the bonnet of the car. When Rizwan objected to this, Afsan began misbehaving and abusing him. In response, Rizwan also abused him and asked him to call his father so that he could complain about the incident. In the meantime, Asif and Kaif Mohammad (relatives of Rizwan) arrived at the spot. At that time, Afsan, after threatening them, left the place.

4. Shortly thereafter, Afsan returned, armed with a meat-cutting knife, along with his brothers Farman and Faizan, his father Zafar, and his friend Tabrez (the petitioner herein). All of them were allegedly carrying *dandas*. When Rizwan narrated the incident to the father and brothers of Afsan, they began assaulting him. When, Asif and Kaif



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Mohammad attempted to intervene, Afsan stabbed Asif in the abdomen with the knife, with an intention to kill him. Simultaneously, Farman, Faizan, Zafar, and the Petitioner inflicted *danda* blows on Asif. Additionally, they caused injuries to the head of Rizwan and Kaif Mohammad and damaged Rizwan's car.

5. During the course of investigation, on the basis of the statement of the injured persons, all the above named accused persons were arrested and the weapon of offence was recovered. On conclusion of the investigation, a Charge-Sheet was filed against the five accused persons, namely Afsan, Farman, Faizan, Zafar and the petitioner for the offences under Sections 307, 427 and 34 of the IPC and charges have been framed. The petitioner had previously filed three bail applications, on 18.07.2024, 06.08.2024 and 04.12.2024 respectively, which all came to be dismissed by the learned Trial Court, leading to the filing of the present bail application.

6. Mr. Divyesh Pratap Singh, learned counsel for the petitioner submits that out of the five accused, Zafar has already been granted bail. He submits that Afsan is the main accused, who caused the stab injuries to Asif and the role of the petitioner, as per the prosecution, is limited and distinct from that of Afsan. The petitioner is neither a relative of the other accused nor is he alleged to have inflicted any injury on Asif. He is the friend of the accused persons and was present at the place of incident without participating in the assault.

7. Even if the prosecution's version is considered to be true for the



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sake of arguments, the learned counsel submits that the allegations against the petitioner are limited to *danda* blows inflicted upon Rizwan and Kaif Mohammad. However, he never assaulted Asif, which is evident from the MLC's of the injured persons. Furthermore, it is contended that the MLCs do not indicate any injury caused by a *danda* on Kaif Mohammad or Rizwan, who reportedly suffered injuries on their hands, not on their heads, as alleged.

8. The learned counsel further points out the supplementary statement of the injured Asif was recorded on 25.04.2024, after about one and a half months of the incident, highlighting major improvements over the initial statement of the injured Rizwan and Kaif Mohammad, recorded on 06.03.2024. He submits that these improvements were introduced merely to implicate the petitioner falsely, as the earlier statements of either of the injured persons did not attribute any active role to the petitioner. He also argued that the prosecution's version omits the injuries caused to the accused Faizan, leading him to file an application under Section 156(3) of the CrPC, to seek registration of an FIR against the three injured persons and others.

9. The learned counsel submits that the petitioner has been in custody for more than a year, despite having clean antecedents. He submits that the injured persons have been discharged from the hospital, and no fruitful purpose would be served by keeping the petitioner in further custody, as the trial would take a long time to



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reach it's logical conclusion.

10. The learned APP for the state, while seeking dismissal of the bail application, submitted that the petitioner is a flight risk as he had absconded after the commission of the offence and did not participate in the investigation. Proceedings under Section 82 Cr.P.C. had to be initiated against him, before he eventually surrendered before the learned Trial Court. He emphasized that the injured Asif, had suffered grievous stab injuries and remained in a critical condition in the hospital for nearly a month. He further submits that the injured persons have specifically named the petitioner as one of the assailants, attributing a a similar role to all the accused person, who, with a common intention, indulged in a deadly assault with an intention to kill Asif.

11. The learned APP further submits that the petitioner cannot claim any parity with co-accused Zafar, who was granted bail by the learned Trial Court, as he had produced CCTV footage to set up a plea of alibi before the learned Trial Court to allege that at the time of the incident, he was not in Delhi. More so, him being an elderly person, a lenient view was adopted by the learned Trial Court.

12. He submits that the Charges have been framed, the trial is underway and 2 out of 17 witnesses have already been examined. He further submits that the injured persons, who are material witnesses, are yet to be examined and the grant of bail, at this stage, will lead to the tampering of evidence and influencing of witnesses.



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13. Mr. Syed Kamran Ali, learned counsel appearing on behalf of the injured persons vehemently opposes the bail application and draws the attention of this Court to the discharge summary of the injured Asif and submitted that injuries have been opined to be “dangerous”, resulting in two surgeries. He submits that the injured and the petitioner are residing in same vicinity, the evidence of the injured is yet to be recorded and that his release on bail would be a major threat to the injured persons.

14. In rebuttal, the learned counsel for the petitioner reiterated his submission and insofar as role of the petitioner is concerned, he submitted that the petitioner had caused no injuries on the person of Asif and subsequently, the injured Asif, by way of major improvements, in the his statement has tried to point out that the petitioner was also an active assailant in causing injuries to Asif. He submits that the subsequent statement recorded on 25.04.2024 is an afterthought with a view to falsely implicate the petitioner.

15. In order to appreciate the submissions of the parties, at the outset, it is pertinent to refer to the injuries sustained by the injured Asif, as detailed in the Discharge Summary prepared by Apollo Hospital. Asif was admitted to the hospital on 05.03.2024 and discharged on 06.04.2024, having undergone two major surgical procedures during his stay. As per the Discharge Summary, the following were the findings:

“Diagnosis: Alleged penetrating abdominal trauma involving pancreatic head, splenic



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flexure of colon, mesocolon and 2nd /3rd /4th part duodenum & proximal jejunum with hemoperitoneum with Hemorrhagic shock

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Date of surgery: 05.03.2024

Procedure: Exploratory laparotomy with hemostasis with stapled closure of distal second part of duodenum with proximal diversion tube duodenostomy with stapled closure of proximal jejunum with feeding jejunostomy with primary repair of splenic flexure of colon on 05.03.2024

Findings:

- Penetrating wound about 3-4 cm at left side of abdomen just beneath the rib, large hematoma at periportal area and mesocolon
- Through and through penetration of D - J junction
- Duodenum 2nd, 3rd; and 4th part lacerated
- Pancreatic head injury +
- Penetrating wound at splenic flexure of colon
- Multiple lacerations present at transverse mesocolon

Significant intra-operative events - Hypotension, Massive blood transfusions, coagulopathy

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POSTOPERATIVE COURSE

He was resuscitated in emergency and prophylactic IV antibiotics, IV fluids, analgesics and other supportive measures were added. He was then taken up for surgery by general surgery team (Dr. Aloy Mukherjee) in view of penetrating injury with hemoperitoneum with hemorrhagic shock. Intraoperatively; liver transplant & HPB surgery team was called for assistance. In view of hypotension with high inotropic requirement with massive blood transfusion,



damage control surgery for hemostasis was done. He underwent - Exploratory laparotomy with hemostasis with stapled closure of distal second part of duodenum with proximal diversion tube duodenostomy with stapled closure of proximal jejunum with feeding jejunostomy with primary repair of splenic flexure of colon on 05.03.2024. Intra-operatively, he had significant hemoperitoneum with hemorrhagic shock with multiple blood transfusion with high inotropic support & coagulopathy, hypothermia & acidosis."

16. The injuries were specifically opined to be "dangerous" in nature. This medical documentation categorically reflects the grave nature of the assault sustained by injured Asif, adding credence to the allegations of life-threatening violence inflicted during the incident.

17. The learned counsel for the petitioner vociferously argued that the petitioner was not one of the main assailants, seeking to minimize his involvement in the assault. However, this contention is belied by the statements of the injured witnesses. Rizwan, in his statement recorded under Section 161 of the Cr.P.C. on 06.03.2024, he categorically mentioned the arrival of Afsan wielding a meat-cutting knife, accompanied by Farman, Faizan, Zafar, and the petitioner, all of whom were armed with *dandas*. According to Rizwan's statement, while Afsan inflicted a grievous knife injury in the abdomen of Asif, the petitioner, along with the other co-accused delivered *danda* blows on Asif and other injured persons. Furthermore, Afsan allegedly proceeded to inflict knife wounds on Rizwan and Kaif Mohammad during the altercation.



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18. Kaif Mohammad, in his statement recorded on the very same day, reiterated the version of events as narrated by Rizwan, corroborating the prosecution's case. Both statements indicate, *prima facie*, that the petitioner played an active role during the commission of the offence by delivering *danda* blows, thereby participating in the assault on the injured persons alongside the co-accused. They, together at the place of the incident, came armed and started the scuffle, resulting in dangerous injuries to the injured Asif. In addition to the injuries caused to Asif, injuries were also inflicted upon the other two injured, namely Rizwan and Kaif Mohammad.

19. It is noteworthy that the statement of Asif was recorded subsequently on 25.04.2024, post his discharge from Apollo Hospital. In his detailed deposition, Asif further elaborated upon the role of the petitioner, attributing specific *danda* blows to him during the assault. The evidentiary value of the statements of the witnesses would be appreciated by the learned Trial Court at the relevant stage.

20. Furthermore, the learned APP, as well as the learned counsel for the injured, raised a significant plea, stating that the testimonies of the injured persons, being material witnesses, are yet to be recorded before the learned Trial Court. It was strenuously contended that any enlargement of the petitioner on bail at this juncture could jeopardize the integrity of witness testimonies, given the proximity of the petitioner to the injured persons.

21. The learned counsel for the petitioner countered this argument



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by alleging that the prosecution deliberately avoided recording the evidence of the injured witnesses before the learned Trial Court to prolong the petitioner's detention. However, the learned APP clarified that the delay was also due to the absence of one of the co-accused during the hearings, preventing Rizwan from testifying. This explanation, coupled with the fact that two witnesses have already been examined in the ongoing trial, negates the argument of deliberate delay.

22. In the conspectus of the evidence on record, particularly the dangerous nature of injuries sustained by the victim Asif, the statements of the injured persons, and the fact that their testimonies yet-to-be-recorded before the Trial Court, this Court is not inclined to grant regular bail to the petitioner. The application for regular bail is, accordingly, dismissed.

23. However, the petitioner shall be at liberty to file a fresh bail application after the testimony of the injured persons, are recorded before the learned Trial Court.

SHALINDER KAUR, J

MAY 15, 2025/FRK

Click here to check corrigendum, if any