



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

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Reserved on: 25th February, 2025

Pronounced on: 6th March, 2025

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BAIL APPLN. 4849/2024

RAJESH BREJA

.....Petitioner

Through: Ms. Rebecca M. John, Senior
Advocate with Mr. Anshul Mittal,
Mr. Parvir Singh & Ms. Khushi
Aggarwal, Advocates

Versus

THE STATE

.....Respondent

Through: Mr. Shoaib Haider, Additional Public
Prosecutor for Respondent-State with
SI Rahul Kumar

Mr. Siddharth Aggarwal, Mr. Samar
Kachwaha, Mr. Rahul Kriplani,
Ms. Rea Bhalla & Ms. Masooma
Rizvi, Advocates for Complainant

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. An Application under Section 439 of the *Code of Criminal Procedure, 1973* ('Cr.P.C.' hereinafter) read with Sections 483/528 of *The Bharatiya Nagrik Suraksha Sanhita, 2023* ('BNSS' hereinafter) has been filed for grant of regular Bail to the Applicant-Rajesh Breja, in case FIR



No.0646/2023, under Sections 120B/115 of the *Indian Penal Code, 1860* ('IPC' *hereinafter*), registered at Police Station Paschim Vihar East, New Delhi. The Applicant is in custody since 15.11.2024 and his Bail Application has been dismissed by the learned Additional Sessions Judge *vide* Order dated 23.12.2024.

2. It is submitted that present FIR No. 646/2023, under Section 120 B IPC was registered on 24.08.2023, on the Complaint of one *Sunil Mohan Bajaj* and his two sons, *Raghavendra Mohan Bajaj* and *Aditya Mohan Bajaj*, on the allegation that on 20.08.2023, one boy *Nikhil*(co-accused), met *Raghavendra Mohan Bajaj*, and told him that Applicant-*Rajesh Breja* had given a sum of Rs.3-4 lacs to co-accused *Mohit* to kill him and his family members and he along with other associates, namely, *Sachin and Manjeet* were out to kill him.

3. The investigation was transferred to the Crime Branch on 26.08.2023.

4. According to the Applicant, he along with his wife embarked on a journey to Kedarnath in June, 2021 and stayed at "*Rewati Resort*", Uttarakhand, which was owned by the Complainant. During their stay, he met with Complainant *Sunil Mohan Bajaj*, who enticed him to invest in their Resort. The Applicant considering that it would give a peaceful environment to his wife who was battling cancer and to his brother, who was grappling paralytic ailment, placed his trust in the Complainants. It was agreed that the Applicant shall have 30% share in the Resort and a portion of the Resort shall be leased out in the name of Applicant's daughter.



5. The Applicant claims to have made payment of around Rs.1.5 Crores by bank transfer and other payments in cash and thereby, transferred funds of Rs.2 Crores to the Complainants.

6. The Applicant has alleged that contrary to the verbal agreements, the Complainant transferred only 21% share ownership, falling short of 30%, despite necessary payments made before the execution of partnership agreement. The Applicant realized that he had been deceived and defrauded by *Mr. Sunil Mohan Bajaj* and *Mr. Raghavendra Mohan Bajaj*, as they failed to deliver any profits in the Resort. This duplicitous conduct had catastrophic consequences for his family, as both his wife and brother passed away after prolonged fight with their illness. This led to Applicant and his daughters' grappling with emotional stress, depression and substantial financial loss.

7. The Complainants have thereafter, been trying to pressurize the Applicant one way or the other to stop raising claims regarding the balance share in the Resort business. He and his family members are not allowed to use and occupy their portion of the Resort premises despite having taken 4 rooms with terrace on perpetual lease, and have been raising false and frivolous Bills to stop them to enter the Resort. The Complainants raised allegations that the Applicant and his daughter had failed to pay the dues and charges in respect of the Resort and made a Complaint to Police Station Narendera Nagar, Uttarakhand and the Applicant has fully cooperated in the investigation conducted by the Police.



8. *Learned Senior Counsel for the Applicant* has submitted that the present FIR is nothing but a pressure tactic by the Complainants to pressurize the Applicant with respect to their commercial dispute. It is submitted that the Applicant had never met *Nikhil* nor has there been any communication between the two at any point of time, directly or indirectly, who had allegedly informed the Complainant about involvement of Applicant in the conspiracy to kill him and his family members. Also, the Applicant has no contact or concern with other accused *Manjeet* and *Sachin*.

9. Moreover, *Nikhil* had accompanied the Complainants to the Police Station and also given his statement to assist in the investigation and his status is only of an “informant” and a possible witness. Even though he was an “accused”, he still made an Application under Section 306 Cr.P.C. before the Court of learned Metropolitan Magistrate for pardon and to become an “Approver”. On the basis of the said Application, *Nikhil* was granted anticipatory bail by the learned Additional Sessions Judge *vide* Order dated 15.09.2023.

10. The Applicant had filed Bail Application 3530/2023 seeking Anticipatory Bail wherein interim protection was granted *vide* Order dated 19.10.2023. The parties were thereafter, referred for Mediation *vide* Order dated 22.11.2023; however, the disputes could not be resolved.

11. The Respondent-State filed updated Status Report dated 25.01.2024, which revealed that the case against the Applicant was registered under Section 120B read with Section 302 IPC and 115 IPC was added. On the next date i.e. 26.02.2024, the Additional Commissioner of Police from



Crime Branch, Delhi submitted before the Court that the Applicant had joined the investigation and also that Section 302 IPC has been wrongly added, but the same was not incorporated in the Order.

12. It is further submitted that no person was ever hurt in the present case and the Investigating Officer had sought to add Section 302 IPC only with the oblique motives to create a ground to oppose the Anticipatory Bail Application of the Applicant. The co-accused *Mohit Rana and Manjeet* were granted Regular Bail by the Magistrate *vide* Order dated 08.11.2023. The Charge-Sheet has been filed under Sections 120B/115 IPC. The Applicant's Anticipatory Bail Application was rejected by this Court *vide* Order dated 16.10.2023 observing that the Investigating Officer required his custodial interrogation. *Vide* Order dated 24.10.2024, this Court permitted the Applicant to surrender before the Trial Court on 15.11.2024 on account of his medical condition.

13. The Petitioner accordingly, surrendered before the learned Trial Court and was remanded to Police Custody for two days and thereafter, to Judicial Custody on 18.11.2024.

14. The Applicant preferred Regular Bail Application dated 18.11.2024 before the learned Magistrate which was dismissed *vide* Order dated 03.12.2024. The Applicant preferred Bail Application before the learned Sessions Court, which was also dismissed *vide* Order dated 23.12.2024. Hence, the present Application has been filed.

15. It is contended that the conclusion drawn by the learned Sessions Court while dismissing the Bail Application that the Applicant is an



influential man, was neither contended by the State nor mentioned in the Status Report. The apprehension that the Applicant may influence or threaten the witnesses or tamper with some evidence, is completely misplaced. The entire case of the Prosecution is based upon inadmissible disclosure statement and the CDRs and CCTV footage, which are already in the custody of the Investigating Agency. The Ld. ASJ failed to appreciate that the investigation in the case was complete and co-accused *Mohit and Manjit* have already been granted regular bail *vide* Order dated 08.11.2023.

16. It is further submitted that the learned Sessions' Judge though observed that in this case there is a civil dispute and it is settled principle that a previous enmity is a double edged sword as it gives a false motive to falsely implicate any person and at the same time gives a reasonable basis for any person to attack the other individual; but did not appreciate that where two views are possible, then the view favouring the accused ought to be adopted by the Court.

17. To submit that "*Presumption of Innocence*" is a golden rule and grant of bail ought not to be denied on perceived apprehension and that the Applicant if set to liberty, will tamper with the evidence; reliance is placed on *Sanjay Chandra Vs. CBI* (2012) 1 SCC 40.

18. It is submitted that Applicant is innocent and there is no evidence of whatsoever nature to connect him with the allegations made in the present case. Co-accused *Nikhil* has been granted anticipatory bail and *Mohit and Manjeet* were granted regular bail; all the relevant evidence is already in the custody of the Police and the investigation is complete; the disputes raised



in the FIR are civil disputes between the parties and any further detention of Petitioner would amount to gross abuse of law. Besides, Applicant is suffering from serious medical problems and is living on one kidney and slightest of mishandling of his abdominal stitches, can lead to infection. The Applicant undertakes not to influence the witnesses or tamper with the evidence and is ready and willing to abide by the conditions imposed by this Court.

19. Thus, regular bail is sought in the case.

20. *The Status Report has been filed on behalf of Respondent-State* wherein it is stated that on the Complaint dated 24.08.2023 made by *Raghavendra Mohan Bajaj*, FIR No. 646/2023 was registered at Police Station Paschim Vihar, Delhi for the offence under Section 120 B IPC. He had stated that on 20.08.2023 when he was leaving his house for a meeting, a boy named *Nikhil* came to him and informed that he had information that one *Mohit* who had been paid Rs.3-4 Lacs by Mr. Rajesh of Paschim Vihar, is out to kill him and his family members with his two associates, Sachin and Manjeet. He also informed that Rajesh had business of Medical Bandages and that Mohit and Rajesh are in regular touch over phone.

21. The investigations were transferred to the Crime Branch, after registration of FIR. The Complainant was examined in detail and it was found that the Complainant owns/ runs a Resort by the name of "Rewati" in Uttarakhand where Applicant Rajesh Breja went to stay and he befriended the Complainant and his family. He showed interest in buying a share in the said Resort and after his persistence efforts, it was agreed that he can buy



30% share in the Resort. He paid for 21% and his wife Mrs. Anjula was made a Partner as is reflected in the Balance Sheet and ROC. Further, a portion of the Resort was leased out to the daughter of the Applicant. The Applicant had paid more than a crore to the Complainant. But after June, 2022 their relationship turned sour, as the dues and charges were not paid by him and his daughter.

22. Also, the Respondent-State had interrogated *Nikhil* who revealed that *Mohit Rana, Manjit Dahiya and Nikhil* had met Rajesh Breja at District Park, Paschim Vihar. They had gone to Noida on 18.08.2023 for executing the murder plan of Complainant- *Raghavender Mohan Bajaj* but could not be executed. From the Call Detail Record it is verified that location of mobile Number of *Manjeet Dahiya* was at Noida on 18.08.2023 at around 06:50 am and location of Applicant- Rajesh Breja and *Mohit Rana, Manjit Dahiya and Nikhil* was District Park, Paschim Vihar at around 10:00 am to 10:34 am. Thereafter, their location was near about Udyog Nagar Metro Station at around 10:50 am to 11:10 am. Also, it has been verified from the CCTV footage installed approximately at a distance of 100 m away from Complainant's house, wherein *Mohit Rana* (in red cap) and *Nikhil* (in white scarf) can be seen at around 08:30 AM on 18.08.2023.

23. After analysis of CDRs, it was found that Applicant- *Rajesh Breja* and *Mohit Rana* were in continuous contact with each other on mobile phone. On 18.08.2023 i.e. on the day of the incident, there were total 04 calls and 05 SMS exchanged with each other. Applicant-*Rajesh Breja and Manjit Dahiya* also contacted each other on mobile phone on 26.07.2023.



24. It is further stated in the Status Report that *Nikhil* had moved an Application before the learned CMM for pardon and was willing to become an Approver but the said Application was withdrawn on 23.02.2024, after he was granted Anticipatory Bail on 15.09.2023.

25. The co-accused *Mohit* and *Manjeet* were apprehended on 17.09.2023 and Section 115 IPC was added to the case. They confessed being party of the conspiracy. *Mohit* disclosed that he used to transport Medical articles to Applicant *Rajesh Breja* and in June, 2023 he was told by the Applicant that *Raghvendra* was responsible for death of his wife and he would pay Rs.7.5 lacs in cash and permanently employ him if he kills *Raghvendra*, who lives in Noida. Thereafter, *Mohit* introduced *Manjeet* and *Nikhil* to Applicant *Rajesh Breja* and conspired for murder of *Raghavendra Mohan Bajaj*. He was given Rs.2.5 lacs in advance. They also disclosed that the pistol was returned to the Applicant- *Rajesh Breja*.

26. The Respondent-State has submitted that the CDR analysis of the suspects, corroborate the disclosure of Applicant *Rajesh Breja*, who was in constant touch with *Mohit Rana* and *Manjeet Dahiya*.

27. It is stated that *Mohit Rana* and *Manjeet Dahiya* have been granted regular Bail *vide* Order dated 08.11.2023 by the learned Metropolitan Magistrate. Charge sheet for the offences under Sections 115/120B IPC has been filed against *Mohit Rana*, *Manjeet Dahiya* and *Nikhil*. It is a case of conspiracy and abatement to commit murder of the Complainant. The Applicant is the main Conspirator and he had provided weapons and money to commit the murder. During investigation, the case properties i.e. mobile



phones, pen drives and clothes were sent for forensic examination and the results are awaited.

28. Submissions heard and record perused.

29. The case of the Prosecution is that *Raghavendra Mohan Bajaj*, is running “*Rewati Resort*” in Uttarakhand, in which the Applicant *Rajesh Breja* had made some investments in 2021. However, in June, 2022 their business relationship turned sour on account of financial disputes.

30. The case of the Prosecution is that the Applicant- *Rajesh Breja*, along with co-accused, *Manjeet Dahiya*, who is his business associate, entered into a conspiracy to kill the Complainant - *Raghavendra Mohan Bajaj*. Co-accused *Manjeet Dahiya* contacted *Mohit Rana* and one *Sachin*, who advised to involve one *Nikhil*, a juvenile. They all were made part of the conspiracy for killing *Raghavendra Mohan Bajaj*.

31. Further, the case of the Prosecution is that amount of Rs.2.5 lacs and two pistols were given by the Applicant *Rajesh Breja* to *Manjeet Dahiya* for execution of the conspiracy. All the four co-accused went to the house of the Complainant - *Sunil Mohan Baja* in Noida but since the Security Guards raised an alarm and police arrived there in time, their attempt got foiled and they ran away from the scene of crime.

32. Co-accused *Nikhil* in his Disclosure Statement recorded on 17.09.2023, stated that the Applicant- *Rajesh Breja* was informed by Co-accused *Manjeet Singh* about the foiled attempt and on his instructions, they all met in District Park, Paschim Vihar, where Applicant *Rajesh Breja* took back the two pistols and said that he had a soundless Japanese Pistol and he



will come back with the other one and left the place. He also said that he is giving them time till Friday and that he will give Rs.7.5 lacs on Monday and the pistols be returned to him. The Applicant- *Rajesh Breja* then left the place, however, again came back but neither brought any pistol nor money and told them that he would not give any money or weapon and that they all should kill *Raghavendra Mohan Bajaj* with baseball bat, knives and in whatever way.

33. Essentially, it was a conspiracy allegedly entered into by the Applicant- *Rajesh Breja*, who had engaged other associates for carrying out the conspiracy. However, it was foiled on 18.08.2024 after which Rajesh took back the weapons and the money and told the co-accused to kill *Raghavendra Mohan Bajaj* in whatever way by using baseball, bats, knife etc.

34. Though the FIR had been registered under Section 120B IPC but subsequently, Section 115 IPC has been added in the Charge-Sheet. Essentially, the entire case of the Prosecution rests on the statement of *Nikhil* who had informed the Complainant- *Sunil Mohan Bajaj* about the conspiracy hatched by the Applicant and other co-accused and also Disclosure Statements of all the accused persons. Prosecution has relied upon footage of CCTV installed near the house of Complainant, wherein *Mohit Rana* (in red cap) and *Nikhil* (in white scarf) can be seen in Noida, UP at around 08:30 AM on 18.08.2023.



35. The Prosecution has also relied upon Call Detail Record of *Mohit Rana and Manjeet Dahiya*, who have already been granted bail *vide* Order dated 08.11.2023 by the learned Metropolitan Magistrate.

36. Accused Nikhil has also been granted Anticipatory Bail by the learned Additional Sessions Judge *vide* Order dated 15.09.2023. Investigation in this case is complete and Charge-sheet has already been filed. The Applicant is a business man and there is no likelihood of his tampering with the evidence or fleeing away from the judicial process of law.

37. Much was argued about the Potential threat to the life of the complainant if the Applicant, who was allegedly the mastermind behind the conspiracy, is enlarged on Bail. However, it cannot be overlooked that the FIR was registered on 24.08.2023. Anticipatory Bail Application was filed by the Applicant and he was granted interim protection from arrest on 19.10.2023 and he duly joined investigations. He finally surrendered before the learned MM, pursuant to the directions of this Court as custodial interrogation was sought for recovery of weapons and cash, though nothing incriminatory was recovered. While the Applicant was under interim protection from 19.10.2023 to 16.10.2024, no untoward incident happened even though the Applicant had every opportunity. This argument on behalf of Complainant, therefore, does not have any merit to deny the Bail. The Applicant has deep roots in the society and is not at flight risk. Also, the charge-sheet already stands filed and there is no likelihood of his tampering with the evidence or influencing the witnesses.



38. In the totality of circumstances, without going into the merits of the case, the Applicant is admitted to bail on his furnishing bail bond in the sum of Rs.50,000/- with one Surety in the like amount to the satisfaction of the Trial Court, subject to the undertaking that:-

- (i) The Petitioner shall not misuse the liberty granted to him;
- (ii) The Petitioner shall not tamper with any evidence, oral or documentary, during the trial;
- (iii) The Petitioner shall give his cell phone number to the Investigating Officer and keep it operational; and
- (iv) The Petitioner shall appear before the Trial Court on every date of hearing.

39. The copy of the Order be sent to the Jail Superintendent for information and the learned Trial Court for compliance.

40. The present Bail Application is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 06, 2025

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