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

+ **BAIL APPLN. 28/2025**

HARPINDER SINGH @ HUNNY

.....Petitioner

Through: Mr. Vineet Jain, Advocate.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP.

SI Rajnikant, P.S. Kirti Nagar, SI
Manish, P.S. Inderpuri and SI Deepak
Patwal, SO Branch/ West.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

07.05.2025

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1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 70/2023 registered under Sections 394/397/34 of the Indian Penal Code, 1860³ at P.S. Kirti Nagar.

2. A copy of the status report has been handed over across the Board and is taken on record.

3. Briefly, the case of the prosecution is set out as follows:

3.1. On 19th March, 2023, through DD No. 41A, information was received

¹ "BNSS"

² "Cr.P.C."



at P.S. Kirti Nagar regarding the MLC of an injured person named Sahil. Acting upon this information, SI Deepak along with his staff reached the scene of the incident, i.e., WZ-116, Mansarovar Garden, Delhi. There, he met HC Ajay, who apprised him that upon receipt of DD No. 10A earlier that day at P.S. Rajouri Garden, he had proceeded to DDU Hospital where the victim, Sahil, was undergoing medical treatment. As Sahil was unfit for statement, only his MLC could be collected, which recorded that the patient came to casualty alleging inflicting of stab wound injury.

3.2. Upon further inquiry, it was revealed that the assault had occurred near Indian Overseas Bank, Mansarovar Garden, which falls within the jurisdiction of P.S. Kirti Nagar. Accordingly, the investigation was transferred to P.S. Kirti Nagar under DD No. 41A.

3.3. The Crime Team inspected the scene, lifted forensic evidence, and retrieved CCTV footage. The footage revealed two masked individuals forcibly breaking into the victim's car, robbing, and stabbing him. The victim's mother reported that two mobile phones, a gold chain, and a wallet belonging to Sahil had been looted during the attack. Based on this information, the present FIR was registered.

3.4. Technical surveillance traced the two-wheeler used in the crime to its registered owner, Karan Singh. Upon inquiry, Karan Singh disclosed that he had lent the vehicle to Harpinder Singh @ Hunny (the Applicant) on 18th March, 2023 and later, on 20th March, 2023, the Applicant had called Karan Singh to intimate that he had parked the vehicle in front of Karan's house. Acting on this lead, police apprehended the Applicant and co-accused

³ "IPC"



Amanpreet Singh @ Money on 21st March, 2023 and recovered the said two-wheeler.

3.5. Further investigation led to the recovery of one mobile phone and a gold chain allegedly stolen during the incident, from the possession of the Amanpreet Singh @ Money. The second mobile phone, the victim's wallet and the weapon of offence, i.e. the knife were recovered from the house of the Applicant.

3.6. During investigation, it also surfaced that a transgender person named Ruhi, had sustained injuries in the incident. Her statement was recorded accordingly.

3.7. The doctors provided their final opinion on the MLC, categorizing the stab wound injury sustained by the victim as "dangerous."

3.8. Both accused persons refused to participate in the Test Identification Parade⁴ proceedings. During the TIP conducted for case properties, the victim identified his stolen belongings.

4. Counsel for the Applicant states that the Applicant has been falsely implicated and urges following in support of his request:

4.1. The Applicant has been in custody since 21st March, 2023. Investigation is complete and chargesheet has already been filed. Therefore, the continued detention of the Applicant serves no useful purpose and would amount to punitive detention at the pre-trial stage.

4.2. The stolen articles (one mobile phone, wallet and knife) recovered from the Applicant have been planted in order to implicate him.

4.3. The prosecution alleges that the Applicant stabbed the victim with a

⁴ "TIP"



knife. As recorded in the chargesheet, blood was found on the knife when it was seized, however, the FSL of the knife reveals that no DNA evidence/blood was found.

4.4. As regards identification, it is argued that both Sahil and Ruhi, the eye-witnesses, in their cross-examination did not support the case of the prosecution as they stated that the perpetrators had muffled faces and could not be properly identified. This, it is argued, casts serious doubt on the reliability of identification.

4.5. The Applicant emphasises that two public witnesses – Karan Singh and Ruhi – turned hostile during their testimonies before the Court. Karan Singh, before the Court, took a departure from his disclosure statement and categorically denied having given the two-wheeler to the co-accused or having any connection with the alleged events. Similarly, Ruhi also turned hostile, stating that she could not identify the accused persons due to their muffled faces.

4.6. In the supplementary statement of Sahil recorded under Section 161 of Cr.P.C, he stated that when he visited the Trial Court on 19th April, 2023 in connection with release of his goods on *superdari*, he identified the Applicant. However, as is evident from the order sheets of the Court, no date was fixed by the Court for 19th April, 2023 in connection with the said matter. Thus, Sahil is trying to mislead the Court.

4.7. By order dated 28th April, 2025 in BAIL APPLN. 4372/2024, this Court granted bail to the co-accused Amanpreet Singh and thus, the Applicant is entitled to be released on bail on the grounds of parity.

5. *Per contra*, Mr. Mukesh Kumar, APP for the State strongly opposes the Applicant's request on the following grounds:



5.1. The offence committed is grave and heinous in nature, involving a brutal assault and robbery, thereby undermining public safety and order.

5.2. The Applicant has 18 other FIRs already registered against him for similar offences. This establishes that the Applicant is a habitual offender, posing a serious threat of re-offending if released on bail.

5.3. There is no apparent reason for the victim to falsely implicate the Applicant, especially when there is no history of previous acquaintance or enmity between the two, thereby lending credibility to the victim's statement.

5.4. With respect to the issue of identification, while it is true that the assailants were initially masked, it has emerged during cross-examination that the masks slipped during the course of the incident, enabling the victim to see their faces. This, the prosecution contends, significantly weakens the defence's argument on doubtful identification.

5.5. In addition to the victim's statement and the CCTV footage, it is further submitted that crucial stolen articles along with the weapon of offence were recovered from the Applicant. This recovery soon after the commission of the crime constitutes a strong incriminating circumstance against the Applicant, warranting denial of bail at this stage.

6. The Court has considered the rival submissions and perused the record.

7. This Court, by order dated 28th April, 2025 in BAIL APPLN. 4372/2024, had granted regular bail to the co-accused, Amanpreet Singh. The Applicant, seeking parity, now asserts that he is similarly entitled to bail. On the last date of hearing, the APP for the State had submitted that the present Applicant has been previously implicated in approximately 20



criminal cases. Today, the State has handed over the Previous Conviction/Involvement Report of the Applicant, which is taken on record.

8. The said report reveals that the Applicant has been named in 18 FIRs dating back to the year 2017. These cases pertain to offences of a similar nature, suggesting a recurring pattern of alleged criminal behaviour. It is observed that, of the 18 cases, the Applicant has been granted bail in 7 cases and acquitted in 8, with the status of 2 cases remaining unknown. The sheer volume and repetitive nature of such accusations raises a serious concern about his habitual conduct.

9. The Court is mindful of the settled law as laid down by the Hon'ble Supreme Court in **Prabhakar Tiwari v. State of Uttar Pradesh**⁵ wherein it was held that while previous criminal antecedents may be a relevant factor in considering a bail application, they cannot by themselves form the sole basis for the denial of bail. However, the Court must also consider the nature of the offence, the specific role attributed to the accused, the likelihood of tampering with evidence or influencing witnesses, and the broader implications on public safety and order.

10. In **Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana Makwana**,⁶ the Supreme Court while relying on the case of **Neeru Yadav. v. State of Uttar Pradesh and Anr.**⁷ observed that the Courts while granting bail, cannot apply the doctrine parity in capricious manner and must consider the totality of the case, including the criminal antecedents of the accused. Where an accused has a significant history of involvement in

⁵ (2020) 11 SCC 648

⁶ AIR 2021 Supreme Court 2011

⁷ AIR 2015 Supreme Court 3703



cognizable offences, such background becomes a material consideration that may justify a differential treatment in the matter of bail.

11. In the present case, although co-accused Amanpreet Singh has been granted bail on the same grounds urged by Applicant, yet, in the opinion of the Court the principle of parity is not attracted in the Applicant's favour. The Applicant has a demonstrably longer and more serious history of criminal involvement. The totality of circumstances, including the nature of the present offence, involving a violent armed robbery resulting in grievous injury, coupled with the Applicant's past conduct, distinguishes his case from that of the co-accused.

12. It is equally important to emphasize that the jurisprudence on bail requires a careful balancing of the accused's right to personal liberty with the broader interests of societal welfare. Although individual liberty is a fundamental constitutional value, it must be weighed against considerations of public order and safety. In light of the foregoing, this Court is of the view that the seriousness of the allegations in the present matter, coupled with the Applicant's repeated prior involvement in similar offences, reflects a continuing threat to public safety and, therefore, warrants the rejection of the present bail application.

13. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and shall not influence the outcome of the Trial.

14. The present bail application is dismissed.

SANJEEV NARULA, J

MAY 7, 2025/as