



2025:DHC:2058



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

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Date of Decision: 27.03.2025+ **BAIL APPLN. 797/2025**

SIRAJ @ SAMEER

.....Petitioner

Through: Mr. S.B. Upadhaya, Advocate

versus

THE STATE GNCT OF DELHI & ANR.

.....Respondent

Through: Mr. Manoj Pant, APP for State with
Inspector Sanjay Singh, PS Bindapur**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T** (ORAL)**CRL.M.A. 5754/2025 (for condonation of delay of 46 days in re-filing)**

1. For the reasons mentioned therein, the application is allowed and delay in re-filing the application after removal of defects is condoned.

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2. Petitioner seeks to be released on bail in case FIR No. 141/2021 of PS Bindapur for offences under Section 302/307/34 IPC.

3. The prosecution case is that on the night of 28.02.2021, in PS Bindapur, DD no. 11A was recorded on the basis of an MLC from DDU Hospital, and on receiving the same, ASI Satyawan with Constable Pradeep reached DDU hospital where they found the injured Chandan Prakash and his brother Suraj Prakash admitted with multiple injuries under treatment. The injured Suraj Prakash, being critical was put on ventilator. The injured

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Chandan Prakash in his statement stated that at about 09:00 pm on that night, when he was going to market with his brother Suraj Prakash to purchase fish, Kaku came from opposite direction on his motorcycle in front of the marriage hall and suddenly swerved the same. Chandan Prakash and Suraj Prakash escaped being hit, so they asked Kaku to drive carefully, which led to an exchange of hot words. Kaku telephonically called his friends. Thereafter, 3-4 motorcycle-borne boys came, out of whom were Monu @ UP and Chhotu, besides a few boys whom he could identify. All those boys assaulted him and his brother with the intention to kill.

4. In response to a specific query during arguments, it is submitted by learned prosecutor on instructions of the Investigating Officer, Inspector Sanjay Kumar that the role assigned to the present petitioner is that he came on a scooty alongwith other assailants and handed over knife to the main accused Kaku. It is also submitted by the Investigating Officer that the said scooty was recovered at the instance of the present petitioner and that the present petitioner was identified by Chandan Prakash on 03.03.2021 regarding which his supplementary statement under Section 161 CrPC was recorded.

5. In his said supplementary statement dated 03.03.2021 Chandan Prakash alleged that on 28.02.2021, he and his brother had a quarrel with Kaku and the present petitioner; and that when other boys reached the spot at the call of Kaku, the present petitioner handed over the knife to Kaku who assaulted him and his brother.



6. Learned counsel for petitioner submits that the abovementioned supplementary statement clearly shows that the petitioner is being falsely booked in this case since in the initial statement, Chandan Prakash described the quarrel between him and his brother on one side and only Kaku on the other while in the supplementary statement, Chandan Prakash also named the present petitioner as a person involved at the time of initial quarrel. Further, it is argued that had the present petitioner been present at the time of incident, Chandan Prakash would have specifically named him in the very first statement, because Chandan Prakash, as per his supplementary statement, knew the present petitioner by name.

7. Considering the above circumstances, I find no reason to deprive the petitioner of his liberty. Therefore, the bail application is allowed. The petitioner is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the trial court and the petitioner is directed not to contact any of the witnesses of the prosecution, otherwise, consequences shall follow. A copy of this order be sent to the concerned Jail Superintendent for being communicated to the petitioner.

GIRISH KATHPALIA
(JUDGE)

MARCH 27, 2025/as