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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 910/2026**

CHAMAN BABU

.....Petitioner

Through: Mr. Jitendra Kumar Singh, Advocate.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Shoaib Haider, APP for State.
Insp. R.N. Pathak, ACB.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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11.03.2026

CRL.M.A. 6930/2026 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

BAIL APPLN. 910/2026

By way of the present petition filed under section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks anticipatory bail in case FIR No. 0102/2026 dated 13.02.2026 registered under sections 110/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS') registered at P.S.: Sagar Pur, South West District, Delhi.

2. Issue notice.
3. Mr. Shoaib Haider, learned APP appears on behalf of the State on advance copy; and accepts notice. The Investigating Officer ('I.O.') is present in court.
4. The complainant/victim viz., Mohit Paswan is also present in court.



5. Mr. Jitendra Kumar Singh, learned counsel appearing for the petitioner submits, that the petitioner is a waiter by profession, who was only returning from work late at night alongwith his colleagues on the date of the incident; and there is no material to show that he has struck the complainant/victim with any brick/stone.
6. Counsel also argues, that since the allegation against the petitioner is under section 110 read with section 3(5) of the BNS, viz., for attempt to commit culpable homicide not amounting to murder, which is punishable with upto 7 years of imprisonment, in terms of para 6 of the judgment passed by the Supreme Court in ***Arnesh Kumar vs. State of Bihar & Anr.***¹, it was the bounden duty of the I.O. to serve upon the petitioner a notice under section 41-A of the Code of Criminal Procedure 1973 ('Cr.P.C.') within 02 weeks from the date of institution of the case, which was not done.
7. Counsel argues, that the first time that a notice under section 35(3) of the BNSS (old section 41-A of the Cr.P.C.) was on 09.03.2026, i.e., *after* the last date of hearing in the case before this court.
8. Mr. Singh submits, that accordingly, the I.O. has failed to comply with the requisite procedure, which would entitle the petitioner for anticipatory bail.
9. Counsel submits, that the victim has not identified the petitioner as the person who was the part of the group or as the person who struck him with a brick/stone on his head.

¹ Criminal Appeal No. 1277/2014



10. Learned APP has handed-up a copy of status report dated 10.03.2026. The same is taken on record.
11. Learned APP has also played the CCTV footage of the incident, which was captured by a camera installed in the neighbouring building.
12. It is submitted on behalf of the State, that the petitioner is seen as the person who threw the brick/stone on the victim; and since the victim was not in a physical state to identify the assailants, the victim's friend who was accompanying him at the relevant time, has identified the assailants, including the petitioner.
13. The court has also interacted with the complainant/victim. He submits, that on a petty issue of his dog barking at the assailants, the assailants initially left the spot, but then returned and brutally assaulted him with the brick/stone, whereby he sustained serious injury on his eye and head. The victim states that by reason of the assault, he has lost sight in his left eye; and he remained hospitalised at the AIIMS Trauma Centre, New Delhi for 04 days, where surgery was conducted on his head.
14. Considering the submissions made; upon perusal of the contents of the status report; and after viewing the CCTV footage played in court, this court is of the view, that at the very least, custodial interrogation of the petitioner would be required to ascertain his identity and role.
15. Insofar as the contention raised on behalf of the petitioner as to purported non-compliance with the judgement of the Supreme Court in *Arnesh Kumar* is concerned, this court is of the view that regardless of any departmental or other similar action that may be called-for



against the I.O., if at all, the default in serving a notice under section 35(3) of the BNSS would not entitle the petitioner for anticipatory bail.

16. As a sequitur to the above, this court is not inclined to allow the present petition.
17. The petition is accordingly dismissed. Pending applications, if any, also stand disposed-of.
18. It is made clear however, that nothing in this order shall prevent the petitioner from applying for any other relief, as may be permissible, in accordance with law.

ANUP JAIRAM BHAMBHANI, J

MARCH 11, 2026

V.Rawat