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

+ **BAIL APPLN. 5017/2025**

PRATHAM

.....Petitioner

Through: Mr. Utkarsh Pandey, Advocate

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State
with SI Pramod Kumar , Crime
Branch

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

27.03.2026

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1. By way of the instant application, the applicant seeks grant of regular bail in a case arising out of FIR bearing no. 406/2024, registered at Police Station Vivek Vihar, Delhi, for the commission of offence punishable under Sections 309(4)/333/3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereafter 'BNS').

2. Briefly stated, the facts of the present case, as per the statement of the complainant, are that on 03.07.2024 at about 1:45 PM, while the complainant was resting at her house along with her daughter, two unknown persons came to her residence on the pretext that they were painting the adjacent house and that their paint brush had fallen from the roof. Upon gaining entry and proceeding upstairs with the complainant, the said persons gagged her and forcibly removed her gold earrings, weighing approximately



8 grams. On the arrival of the complainant's daughter at the spot, both the accused persons fled from the premises. Based on the statement of the complainant, the present FIR was registered. During the course of investigation, CCTV footage from the vicinity was examined, wherein two suspects were seen fleeing from the spot. On 04.07.2024, acting on secret information, Pratham (the present applicant) and co-accused Rupender Singh were apprehended near Jwala Nagar Railway Line.

3. The learned counsel appearing for the applicant argues that the applicant has been falsely implicated in the present case and that no recovery of the alleged stolen property has been effected at his instance. It is further contended that there is an unexplained delay in the lodging of the FIR, inasmuch as the alleged incident took place at 01:45 PM, whereas the FIR was registered only at 07:10 PM. It is also argued that the applicant has been in judicial custody for about two years, and the complainant has already been examined before the learned Trial Court; therefore, there is no reasonable apprehension that, if released on bail, the applicant would threaten or influence the complainant. Accordingly, it is prayed that bail be granted to the applicant.

4. On the other hand, the learned APP for the State argues that a judicial Test Identification Parade (TIP) of the applicant was conducted, wherein the complainant had duly identified the applicant. It is further submitted that in her testimony recorded before the learned Trial Court, the complainant has again identified the accused persons. It is also contended that one of the eye-witnesses, the daughter of the complainant, is yet to be examined before the learned Trial Court and thus, considering the seriousness of the allegations,



the present application be rejected.

5. This Court has **heard** arguments addressed by the learned counsel for the applicant and the learned APP for the State, and has perused the material on record.

6. In a nutshell, the allegations against the applicant are that he, along with the co-accused Rupender, had entered the complainant's house on the false pretext that they were painters engaged in painting an adjacent house and that their paintbrush had fallen onto the roof of her premises. Thereafter, upon gaining entry and proceeding upstairs with the complainant, the applicant had allegedly gagged her and forcibly removed her gold earrings, weighing approximately 8 grams.

7. This Court notes that the complainant has been examined before the learned Trial Court as PW-1, and has reiterated the entire incident. The relevant portion is mentioned below:

“Thereafter, I alongwith abovesaid person reached at the first floor of the abovesaid house. Suddenly, one accused person namely Rupender (present in the court today and correctly identified by the witness who was wearing white blue check half sleeves shirt and blue jeans caught hold my both hands from back side and another accused Pratham (present in the court today and correctly identified by the witness who was wearing white shirt and blue jeans put cloth and tied my mouth. Thereafter, accused Rupender forcefully removed my both ear rings (weight about 8 grams). As soon as accused removed the cloth from my mouth, I raised hue and cry.”

8. Further, it is noted that during her examination before the learned Trial Court, the complainant (PW-1) has duly identified the applicant.

9. It is also pertinent to note that another material witness, i.e. daughter of the complainant, who is also an eyewitness to the incident, is yet to be



examined before the learned Trial Court.

10. Therefore, considering the overall facts and circumstances of the case, particularly that the daughter of the complainant, who is also an eyewitness, is yet to be examined before the learned Trial Court, and that the complainant, in her testimony, has supported the prosecution's case, this Court is not inclined to grant regular bail to the applicant at this stage.

11. Accordingly, the present bail application is dismissed.

12. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

**MARCH 27, 2026/ns
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