



2025:DHC:4671



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

Reserved on: 28.05.2025
Pronounced on: 30.05.2025

+ BAIL APPLN. 3750/2024

ANKIT BISHT @ NIKKI THROUGH PAROKAR WIFE MS.
PRIYANKA NEGI

.....Petitioner

Through: Mr. Vishwendra Verma, Ms.
Shivali, Mr. Archit Verma, Ms.
Dolly Sharma and Mr. Ajay
Pandey, Advs.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Raghuinder Verma, APP
for State.

CORAM:
HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J

1. The present Application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner seeking grant of Regular Bail in connection with FIR No. 853/2023 dated 17.11.2023 registered at the Police Station Keshav Puram under Sections 307, 147, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 ('subject FIR').



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2. The present case emanates from the registration of the subject FIR on the basis of complaint of one, namely, Mahadev, who stated that on 16.11.2023, at around 02.30 PM, he received a call from his Friend namely, Saurabh Bhangolia, who informed him that one, Ankit Khaari is bullying their friends Harsh Mudgal and Abhishek Khaari over phone. Subsequent to which, Saurabh told the Complainant to gather friends to teach a lesson to Ankit Khaari. Thereafter, the Complainant and his Friends were moving towards Kanhiya Nagar Metro Station in Cars, where they met Ankit Khaari and his friends, including the Petitioner Ankit Bisht @ Nikki, Pratyaksh Chahar, Viplav Khaari, Nitin and others, and thereupon a verbal altercation between these two groups ensued and upon its escalation, the Petitioner took out a pistol and threatened to kill the Complainant, due to the threat perceived, the Complainant turned his back on the Petitioner and tried to run away, when the Petitioner fired a gunshot at the Complainant from his Pistol. The Complainant was taken to the Hospital for treatment and the bullet was extracted from his body.

3. Accordingly, the subject FIR was registered against the five accused persons namely Pratyaksh Chahar, Nitin Gupta, Rushil Mongia, Rachit and the Petitioner. The Petitioner was arrested by the Police in the present case on 20.01.2024. During the investigation, the Police also seized the three vehicles used in the commission of the Crime and a CCTV footage covering the place of incident. A cross FIR bearing No. 858/2023 dated 21.11.2023 under Sections 323, 147, 148, 149 of the IPC also came to be registered on the complaint of



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accused Rachit Arora and the investigations are underway in the said FIR.

4. The Petitioner had moved two Bail Applications before the learned Additional Sessions Judge (ASJ), North West, Delhi ('Trial Court') which came to be dismissed *vide* Orders dated 28.02.2024 and 22.03.2024. The Third Bail Application of the Petitioner was dismissed by the learned Trial Court *vide* Order dated 28.05.2024. Hence, the Petitioner has preferred the present Bail Application before this Court.

5. Learned Counsel for the Petitioner submitted that the Petitioner has been falsely implicated in the present case on the *mala fide* intention of the Complainant against him, for which he has suffered incarceration since the date of his arrest i.e. 20.01.2024 till date. He submitted that the investigations in the subject FIR is complete and the Chargesheet has also been filed and the trial is at the stage of arguments on Charge. Thus, the Petitioner is not required for further custody. Moreover, he submitted, nothing has been recovered from him or at his instance.

6. Learned Counsel strenuously arguing on the ground of parity submitted that all the co-accused persons in the present matter i.e. Nitin Gupta, Pratyaksh Chahar, Rushil Gupta and others have been enlarged on Bail by the learned Trial Court. He further submitted that the co-accused Ankit Khaari, who was initially an absconder had surrendered himself before the concerned authorities, was also granted Bail by the learned Trial Court *vide* Order dated 20.03.2024.



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7. He vehemently submitted that on earlier occasions, the Petitioner was granted *interim* Bail by this Court and the Petitioner had not once misused the benefit afforded to him and had abided by the conditions imposed by this Court. Furthermore, the Petitioner had timely surrendered before the concerned authorities on all such occasions and had not intimidated or threatened any of the witnesses in this case, let alone tampering with evidence.

8. He submitted that the learned Trial Court had *vide* Order dated 05.06.2023, granted the Regular Bail to the Petitioner in another FIR bearing no. 198/2023 filed against him. He further submitted that in the present case, no blood was found at the spot of the incident or from inside the vehicle in which he was transported to the Hospital. Thus, the prosecution has no case against the Petitioner to implicate him for the offences.

9. Learned Counsel submitted that even in the Cross FIR, all the accused are on Bail. He further submitted that the Complainant in the present FIR is also involved in other criminal case.

10. Moreover, he submitted, the CCTV footage relied upon by the Prosecution is unclear inasmuch as the role of the Petitioner is concerned as the Petitioner cannot be shown to be firing any gunshot. Therefore, in these circumstances, the Petitioner deserves to be released on Regular Bail.

11. On the other hand, the learned APP strongly opposing the Bail Application submitted that during the course of investigations, a CCTV footage has been recovered wherein the five accused persons,



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including the Petitioner, have been identified and were accordingly, arrested by the Police. Further, he submitted, the 3 vehicles, Hyundai i-20, Innova Crysta and Maruti Swift used in the commission of the crime have been seized by the investigation team.

12. Learned APP submitted that the allegations against the Petitioner in the FIR are serious in nature having fired a gunshot at the Complainant, especially when the Complainant had tried to run away after seeing the Pistol in Petitioner's hands. Further, before firing the gunshot, the Petitioner had threatened the Complainant that he will kill him, therefore, his intentions were clear. This, he submitted, is also corroborated by the MLC Report which states that the Complainant had gunshot injury in the left lower part on the back of his body.

13. Learned APP further submitted that it is apparent from the CCTV footage that the Petitioner was present at the scene of incident and there are 2 witnesses who have heard the gunshot and the Petitioner is specifically named in the FIR by the Complainant alleging he was shot by him from his Pistol, supporting the prosecution's case.

14. The Petitioner, learned APP submitted, is implicated in two more FIRs bearing no. 480/2023 under Sections 279, 307, 323, 504, 506 of the IPC and another FIR bearing No. 198/2023 under Section 398 and 34 of the IPC. Further, the Chargesheet has been filed in the Subject FIR and the Trial is underway before the learned Trial Court. In these prevailing circumstances and the gravity of offence, the



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Petitioner is not entitled to be enlarged on Regular Bail.

15. Having heard the learned counsel for the Petitioner and the learned APP appearing on behalf of the State and perused the record.

16. The role ascribed to the Petitioner by the Prosecution is that on 16.11.2023, during the verbal altercation between the two groups, which comprised of Complainant and his friends on one side and the Petitioner and his accomplices on the other, the Petitioner allegedly took out a pistol threatening to kill the Complainant, following which he fired a gunshot at the Complainant from his Pistol when he turned his back on the Petitioner and tried to run away. In this process, the Complainant suffered a gunshot injury on his back, who was then taken to Pentamed Hospital for treatment of the gunshot injury.

17. The MLC Report dated 17.11.2023 states that the Complainant had suffered a “*Gun Shot Injury over left lower part on the back of body*”. It further states that there is an entry wound over the aforementioned body part and there is no other / exit wound. The gunshot injury has been opined to be ‘*dangerous*’.

18. Notably, the Petitioner has been named in the FIR on the basis of the statement of the Complainant that he was shot by the Petitioner from his pistol and the allegations against him are specific in nature.

19. The learned APP had brought this Court’s attention to the CCTV Footage recovered by the Investigation Agency of the incident, to submit that the presence of the Petitioner can be noted at the scene of the incident. He also submitted that two of the material witnesses of the prosecution case had heard the sound of the gunshot and the third



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witness i.e. Complainant had stated the Petitioner having fired the gunshot on him.

20. On the point of parity, the learned APP though admitted that all the accused persons in the present FIR and the cross FIR have been granted Bail, however, he submitted that their roles were much lesser than the Petitioner. The role of the Petitioner, he submitted, is grave as he is the one who had fired a gunshot and caused ‘dangerous’ injuries to the Complainant. Moreover, he submitted, the Petitioner does not have clean antecedents.

21. To appreciate the plea of the Petitioner on parity, it would be apposite to refer to the decision of the Supreme Court in **Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana** (2021) 6 SCC 230, relevant extract whereof reads as under:

“26....The High Court has evidently misunderstood the central aspect of what is meant by parity. Parity while granting Bail must focus upon the role of the accused. Merely observing that another accused who was granted Bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of Bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance. The High Court has proceeded on the basis of parity on a simplistic assessment as noted above, which again cannot pass muster under the law.”

22. Thus, the position of law is well settled that parity cannot be claimed as an absolute right, the role of the accused has to be seen in light of the other accused persons who have been granted Bail. In the



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present case, the Petitioner has categorically been alleged to have fired a gunshot at the Complainant and his role is comparatively graver than the co-accused persons who have been enlarged on Bail. The contention of the Petitioner that no blood traces were found in the Car or at the Crime Scene, therefore, it cannot be said that the Complainant suffered a gunshot injury at the Crime Scene. From the MLC Report dated 17.11.2023, it is evident that the Complainant suffered only an entry wound and there was no exit wound, the bullet was struck in the Complainant's body, which was removed by way of surgery. Needless to say, the question of blood traces is a matter of trial to be explained by the concerned Doctors, which will be dealt by the learned Trial Court at an appropriate Stage.

23. Insofar as the argument of the Petitioner that he cannot be seen in the CCTV footage firing a gunshot is concerned, for the said purpose, it will have to be appreciated from the angle the CCTV footage was recorded, possibly, from the CCTV Camera from which the footage was retrieved, may not have captured the position wherefrom the Petitioner could be seen to fire the gunshot. Be that as it may, it is again a matter of trial, which will be dealt with by the learned Trial Court after recording of evidence and material produced before it.

24. Notably, from the Nominal Roll dated 24.04.2025, it emerges that the Petitioner is in custody in the present case since 20.01.2024 and had been on *interim* Bail intermittently, having spent a total of 10 months and 11 days in custody. Though his jail conduct is



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‘satisfactory’, however, he is also involved in another criminal case. The learned APP had submitted that apart from the aforementioned FIR, there is one more FIR against the Petitioner. Though stated to be on Bail in both the cases, nonetheless, the FIR bearing no. 480/2023 registered against the Petitioner is for a similar offence under Section 307 of the IPC.

25. In view of the entire conspectus of facts and circumstances, the grave allegations, Petitioner being involved in other two FIRs involving serious offences, one also being under Section 307 of the IPC and the Trial being underway, at this stage, it is not a fit case to grant Regular Bail to the Petitioner. However, the Petitioner is at liberty to move a successive Bail Application, if there is a material change in circumstances.

26. Accordingly, the Bail Application is dismissed, along with the pending Applications, if any.

27. It is made clear that this Court has not expressed any observations on the merits of the Petitioner’s case and the observations hereinabove have been made for the adjudication of this Bail Application alone.

SHALINDER KAUR, J

MAY 30, 2025/KM

Click here to check corrigendum, if any