

Asif vs The State Govt. Nct Of Delhi on 10 March, 2025

Author: Sanjeev Narula

Bench: Sanjeev Narula

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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 506/2025 & CRL.M.A. 3651/202
ASIF

THE STATE GOVT. NCT OF DELHI

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

% 10.03.2025

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 439 of the Code of Criminal Procedure, 1973) seeks grant of bail in proceedings arising from FIR No. 54/2024 for offences under Sections 392/394/398/34 of the Indian Penal Code, 1860 read with Section 27 of the Arms Act, 1959, registered at Police Station Mansarovar Park, Shahdara. Subsequently, chargesheet was filed in which the Applicant has been charged with offences under Sections 398/395/397/412/120B/34 of the IPC.

2. In brief, the case of the prosecution is as follows:

"BNSS"

"Cr.P.C."

"IPC"

"the Arms Act"

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2.1. On 20th January, 2024, a PCR Call was received by Police Station Mansarovar Park, Shahdara, which was recorded as DD No. 74A. When Sub-Inspector, SI Bhojraj Singh arrived at the crime scene, he met the Complainant, Mr. Murari Chaudhary, who handed over a mobile phone, recovered from the spot. The mobile was seized as part of investigation. The Complainant who looks after the sales work for Palak Textile Company stated that on 19th January, 2024, he had sold goods to a customer, who paid him INR 1,30,000/- in cash. As he needed to make payments for labor and transport services at the company's warehouse, he decided to carry the money with him.

2.2. On 20th January, 2024, while carrying the cash in a blue-coloured leather bag, the Complainant was en route to the warehouse in Siraspur but was unable to complete his visit. As he was returning home on his two-wheeler around 8:30 PM, near S.K. Glass and Aluminum Door on Motiram Road, Shahdara, he stopped to allow a vehicle to pass. At that moment, two boys approached him; one pushed him off the bike while the other grabbed his bag, and both fled toward Loni Road. He quickly got up and, with assistance from a passing motorcyclist, chased the assailants. Near Shree Laxmi Traders on Loni Road, the two boys mounted a waiting motorcycle, and the rider accelerated, escaping from the scene. As the Complainant closed in on them, one of the robbers brandished a pistol and threatened to shoot him if he continued the chase. Fearing for his life, the Complainant abandoned the pursuit and returned to his two-wheeler, where he noticed a mobile phone lying on the ground. Using the recovered phone, he called the police. Based on his statement, the present FIR was registered.

2.3. During the course of investigation, the police apprehended and This is a digitally signed order.

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interrogated Mr. Asif @ Bhayia, the Applicant, on the basis of a lead obtained through the mobile phone recovered by the Complainant. Pursuant to his disclosure, two additional individuals, Mr. Shalib @ Shalim and Mr. Faisal @ Munna, were also arrested.

2.4. During interrogation, the Applicant disclosed that he, along with Mr. Shalib @ Shalim, and other accomplices hatched a conspiracy to rob the Complainant. Mr. Shalib @ Shalim further introduced one Mr. Arbaz to the group, who subsequently joined the conspiracy. Based on this disclosure, Arbaz was also arrested in the present case. A portion of the stolen cash amounting to 7,000/- was recovered from the Applicant and seized through a formal seizure memo. Additionally, one 'Desi Katta' (country-made pistol) along with two live cartridges and some cash were recovered from Mr. Arbaz. Further, at the instance of Mr. Faisal, the two-wheeler used in the commission of the offence was also recovered.

2.5. A Test Identification Parade was conducted for Mr. Arbaz and Mr. Faisal, during which the Complainant correctly identified them. The stolen bag was also subjected to a TIP, where it was duly identified.

2.6. The Applicant has a long-standing acquaintance with the co-accused Faisal, as both resided in the same locality.

2.7. The Applicant admitted to receiving 10,000/- as his share of the robbed amount, out of which 7,000/- was recovered based on his disclosure statement.

2.8. The Call Detail Records⁵ of the accused persons revealed that Faisal and the Applicant contacted each other before and after incident on 20 th January, 2024.

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2.9. As per the location chart, location of the Applicant's mobile is seen at Old Seelampur Gandhi Nagar, Gokulpur Shahdara on the date of the incident.

2.10 It was also discovered that the Applicant had a prior criminal record, having been previously involved in FIR No. 250/2019, registered under Section 395 IPC and Sections 25/54/59 of the Arms Act at PS Geeta Colony, District Shahdara, Delhi.

3. In this background, counsel for the Applicant submits the following in support of his request for bail:

3.1. The Applicant was arrested on 21st January, 2024 and more than one year has lapsed since the date of his arrest. The chargesheet stands filed and the Trial is at the stage of charge. Thus, no purpose would be served by prolonging the Applicant's incarceration. 3.2. The Applicant has been falsely implicated in the present case. As regards the alleged recovery of INR 7,000/- from the Applicant, it is contended that without any specific identification mark on the currency notes, recovery of amount alone is not sufficient to suggest the involvement of the Applicant in the present conspiracy. 3.3. Additionally, apart from the one public witness who is stated to have helped the Complainant, no other public witnesses have been cited despite the incident taking place at a busy road. This also casts doubt over the prosecution's story.

3.4. No Test Identification Parade of the Applicant was conducted. The FIR discloses no direct role of the Applicant.

4. Contrarily, Mr. Mukesh Kumar, APP for State, strongly opposes the "CDRs"

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bail application and submits that the facts outlined above clearly establish the Applicant's involvement. He highlights that the Applicant's previous bail request has been rejected by the Trial Court on 15th October, 2024. Mr. Kumar further contends that the recovery of cash attributed to the

Applicant serves as compelling evidence of his involvement. He emphasizes that the disclosure statements implicate the Applicant, reinforcing the argument that he should not be granted bail.

5. The Court has considered the facts and the submissions advanced. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.⁶

6. Pertinently, the chargesheet has already been filed, indicating that the investigation is complete. Consequently, the Applicant is no longer required for any ongoing investigation. The prosecution's case alleging the Applicant's involvement primarily hinges on the purported recovery of currency notes. In this regard, the Court prima facie finds merit in the Applicant's contention that the recovered currency notes bear no specific identification marks linking them to the crime scene. This lack of distinctive evidence diminishes the probative value of the recovery. Furthermore, no direct role has been attributed to the Applicant herein. Additionally, this Court vide order dated 15th January, 2025, in Bail Appln. 4328/2024 granted bail to co-accused Shalib@Shalim. Thus, even on grounds of parity the Applicant is entitled to bail. In light of these factors, the Court is inclined to See also: Sanjay Chandra v. CBI, (2012) 1 SCC 40; Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51.

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7. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of 50,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever; b. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- c. The Applicant shall appear before the Trial Court as and when directed;
- d. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times. f. The Applicant shall report to the concerned PS on first Friday of every month and shall not be kept

waiting for more than 1 hour; g. In the event of there being any FIR/DD entry / complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

8. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 04/04/2025 at 22:25:04 the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

9. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J MARCH 10, 2025/ab This is a digitally signed order.

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