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

+ BAIL APPLN. 2377/2025 & CRL.M.A. 18938/2025 EXEMPTION
FROM FILING STATUS REPORT

RAKESHPetitioner

Through: Mr. Tanveer Ahmed Mir, Sr.Adv.
Mr. Aditya Aggarwal, Mr. Ankit
Mutreja, Advs.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Aman Usman, APP with Insp.
Arun Dagar, PS Bhalswa Dairy.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

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O R D E R
26.08.2025

1. This is an application for the grant of regular bail filed on behalf of petitioner Rakesh in case FIR No. 215/2024, PS Bhalswa Dairy, under Section 302/34 IPC.
2. Bail application filed by the petitioner has been dismissed by the learned Sessions Court vide order dated 26.06.2025.
3. Learned APP submits that the bail application filed before the Sessions Court was pressed only on the technical ground that the grounds of arrest were not supplied in writing to the petitioner by the Investigating Officer in compliance of Section 15(1) Cr. PC and Article 22(1) of the Constitution of India and was not considered on merits. Placing reliance on the judgment of Supreme Court in the case of ***Arvind Kejriwal Vs. Central Bureau of Investigation, 2024 SCC OnLine SC 2550***, it has been submitted



that the petitioner should first approach the trial court for bail on merits and cannot be permitted to urge bail before this Court without first seeking relief from the trial court.

4. Mr. Tanveer Ahmed Mir, learned Senior Counsel, who appears for the petitioner, submits that the power of Sessions Court and the High Court in the matter of grant of bail under Section 483 BNSS are concurrent and there is no statutory bar for entertaining the bail application by the High Court without first approaching the Sessions Court. He submits that the observations of the Supreme Court in the case of Arvind Kejriwal (*supra*) are obiter as the same were made while deciding the issue as to whether the filing of a charge sheet is a change in circumstance warranting relegation to the trial court for grant of regular bail. In support of his such submission, he places reliance on the case of **State of Gujarat Vs. Utility Users Welfare Association (2018) 6 SCC 21.**

5. Section 483 BNSS confers wide discretion to the Court of Sessions as also the High Court to enlarge a person on bail. Since both Courts, the Court of Sessions and this Court have concurrent power, it is desirable that the Sessions Court should be approached first in the matter. Of course, in extraordinary circumstances for special reasons, the accused may also approach the High Court directly but the High Court cannot entertain the applications moved under Section 483 BNSS as a matter of routine and without there being special reasons or circumstances to entertain the same. By following this path, the superior court would have the advantage of considering the opinion of the Sessions Court on the bail application. In the case of Arvind Kejriwal (*supra*), following pertinent observations have been made by the Supreme Court in Para No. 44 & 45, ,which are extracted below:-



“44. An undertrial thus should, ordinarily, first approach the Trial Court for bail, as this process not only provides the accused an opportunity for initial relief but also allows the High Court to serve as a secondary avenue if the Trial Court denies bail for inadequate reasons. This approach is beneficial for both the accused and the prosecution; if bail is granted without proper consideration, the prosecution too can seek corrective measures from the High Court.

45. However, superior courts should adhere to this procedural recourse from the outset. If an accused approaches the High Court directly without first seeking relief from the Trial Court, it is generally appropriate for the High Court to redirect them to the Trial Court at the threshold. Nevertheless, if there are significant delays following notice, it may not be prudent to relegate the matter to the Trial Court at a later stage. Bail being closely tied to personal liberty, such claims should be adjudicated promptly on their merits, rather than oscillating between courts on mere procedural technicalities.”

6. Admittedly, petitioner filed the bail application before the Sessions Court, which came to be dismissed on 26.06.2025. The perusal of the said order reveals that the bail application was pressed and considered only on limited ground that the grounds of arrest were not supplied to the accused. No merits of the case have been discussed in the order. The present application has been filed on the merits of the case, and therefore, it would be appropriate that petitioner should first approach the trial court for bail on merits.

7. Even though, notice was served on the last date, there has not been any significance delay following the notice, the petition is, therefore, disposed of with direction to the petitioner to first approach the trial court and seek bail.

RAVINDER DUDEJA, J.

AUGUST 26, 2025
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