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

+ **BAIL APPLN. 3618/2024**

NITISH @ SINTI

.....Petitioner

Through: Mr. Lewish Edward, Mr. P. Vignesh,
Advocates

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State for Mr. Amit Ahlawat, APP for
the State with SI Parmod Kumar, PS
Crime Branch

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

21.03.2025

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1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 865/2023 dated 4th December, 2023, registered under Sections 336, 34 of the Indian Penal Code, 1860³ and Sections 25, 27, 54, 59 of the Arms Act, 1959⁴ at P.S. Punjabi Bagh. Subsequently, a chargesheet was filed and the Applicant has been charged with offences under Sections 336, 307, 482, 120B of IPC and Sections 25, 27 of the Arms Act.

¹ "BNSS"

² "CrPC."

³ "IPC"

⁴ "the Arms Act"



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

2.1. The present case was registered on 4th December, 2023, on the basis of the statement of one Mr. Yogesh Kumar who was working as a guard at Kothi No. 59/77, Om Villa, West Punjabi Bagh, Delhi which belongs to Mr. Deep Malhotra, Ex-MLA, Faridkot, Punjab.

2.2. The Complainant narrated that on 3rd December, 2023, around 06:30 PM, he was in the guard room at the main gate and heard a gunshot. When he went outside, he saw that there were two unidentified persons, approximately 25 years old, who fired around 4-5 rounds at the main gate of the house, after which they fled towards Ganda Nala, Punjabi Bagh. Accordingly, the present FIR was registered and the instant case was transferred for further investigation to the Crime Branch, New Delhi.

2.3. On receipt of secret information, one Mr. Aakash @ Kasa, was apprehended on 8th December, 2023. During interrogation, he disclosed that he along with two other persons namely Mr. Sombir and Mr. Nitesh @ Sinti (the Applicant) were involved in the crime. He also revealed that he was in contact with Mr. Rohit Moi of “Gogi Gang” who directed the Applicant to contact one Mr. Vishal Chaudhary of the “Lawrence Bishnoi Gang”. Mr. Vishal Chaudhary had ordered Mr. Akash @ Kasa to fire at the gate of Mr. Deep Malhotra and in furtherance of his directions, Mr. Akash @ Kasa received 5 pistols and 15-16 cartridges from Jahari Bypass, Sonipat.

2.4. Mr. Akash @ Kasa further revealed that on 3rd December, 2023, he along with the Applicant and Mr. Sombir reached Madipur Metro Station and received a motorcycle from the co-accused namely, Mr. Vansh @ Gola. Mr. Akash @ Kasa then reached at the place of occurrence riding the said



motorcycle and met the Applicant and Mr. Sombir who reached by an auto-rickshaw. Mr. Akash @ Kasa kept sitting on his motorcycle near the house of Mr. Deep Malhotra while the Applicant and Mr. Sombir executed the firing. Consequently, the Applicant and Mr. Akash @ Kasa were arrested on 8th December, 2023.

2.5. During the course of investigation, on 13th December, 2023, the third accused i.e. Mr. Sombir @ Totla who was also one of the shooters, was arrested after a brief exchange of fire with the police team. Resultantly, another FIR No. 286/2023 under Sections 186/353/307 of the IPC and Sections 25/27 of the Arms Act, was registered.

2.6. During interrogation, Mr. Akash @ Kasa had provided the mobile number of Mr. Vansh @ Gola, who was then apprehended. Mr. Vansh @ Gola disclosed that he had received the motorcycle on 3rd December, 2023, from one Mr. Gaurav Rana. Thereafter, Mr. Gaurav Rana was also arrested. It was also revealed that Mr. Rohit Moi directed Mr. Gaurav Rana to follow the directions of Mr. Vishal Chaudhary and it was on the instructions of Mr. Vishal Chaudhary that Mr. Gaurav Rana sent Mr. Vansh @ Gola to get the bike and deliver it at Madipur Metro Station.

2.7. During the investigation, Section 307/120B/482 of the IPC were also added to the present case. On 20th December, 2023, the TIP proceedings of the Applicant and Mr. Sombir were conducted, however, the Complainant refused to identify the accused persons citing that since they are associated with a notorious gang, he is afraid that they may cause harm to him. Although he identified the shooters, he did not disclose the same to the Magistrate. In this regard, his statement under Section 161 of CrPC was also



recorded.

2.8. Meanwhile, Mr. Deep Malhotra was also examined wherein he stated that in October, 2023, Mr. Goldy Brar, a fugitive, had made threatening calls to him and he was demanding extortion money from him. Thereafter, he had sent some of his associates and burnt his two liquor shops in Punjab. In this regard, an FIR has also been registered at Police Station City Kotkapura, Faridkot, Punjab.

2.9. According to the IPDR records of the mobile phone of Mr. Akash @ Kasa, him along with Mr. Vansh @ Gola and Mr. Gaurav Rana, were in contact with each other at the destination IP address 98.41.121.53 during the period from 29th November, 2023 to 3rd December, 2023. This IP belongs to Internet Service Provider Comcast Cable Communications LLC, California, USA, which indicates that someone from outside India were directing the accused persons. As per the Call Detail Records⁵ and location chart of the mobile of all the accused persons, it is revealed that the trio of shooters were present near the place of occurrence on 29th November, 2023 and 3rd December, 2023. It was also revealed that Mr. Vansh @ Gola, who delivered the bike, was present at Madipur Metro Station on 3rd December, 2023 before the incident.

3. Counsel for the Applicant submits that the Applicant has been wrongly implicated in the present case and submits the following submissions in support of his request:

3.1. In the present case, investigation is complete and chargesheet has been filed, thus, no fruitful purpose will be served by keeping the Applicant

⁵ “CDRs”



in custody.

3.2 The prosecution has failed to prove he was in conscious possession of the weapon allegedly recovered from the possession of the Applicant.

3.3. There are inconsistencies in the testimonies of key material witnesses which casts a doubt on the prosecution's case.

3.4. According to the prosecution, two individuals are visible in the CCTV footage firing at the gate of the residence of Mr. Deep Malhotra, however, the Applicant has not been identified in the footage. Moreover, in the TIP proceedings the Complainant has not been successful in identifying the accused persons.

3.5. The alleged recovery of the gun made from the Applicant was sent for FSL examination and report thereof has been returned as "negative."

3.6. Mr. Lawrence Bishnoi and Mr. Goldy Brar, who would be the main beneficiaries of the alleged extortion, have not been named as accused by the prosecution.

3.7. The Applicant also points out that three co-accused, namely Mr. Vansh @ Gola, Mr. Gaurav Rana and Mr. Aakash @ Kasa, have already been granted bail by this Court through orders 5th August, 2024, 22nd August, 2024 and 15th January, 2025 respectively and thus, the Applicant is entitled to be released on bail on the grounds of parity.

3.8. Furthermore, the Applicant is aged around 19 years and has no criminal antecedents. He undertakes to abide by the conditions of this Court, if bail were to be granted.

4. On the other hand, Mr. Mukesh Kumar, APP for State, strongly opposes the bail application and submits as follows:



4.1. The Applicant is part of the two organised crime syndicates known as “Gogi Gang” and “Lawrence Bishnoi Gang” who are involved in a large number of crimes.

4.2. The disclosure statements of the co-accused unequivocally suggest that the Applicant was acting under the directions of the aforementioned gangs. This claim is further substantiated by the CDRs of the Applicant and the co-accused persons, which place them in close proximity to the crime scene both on the day of the incident and the preceding day. Thus, the disclosure statements along with the CDRs is sufficient to establish the guilt of the Applicant.

4.3. Although, the Applicant was captured in the CCTV footage his face was not visible as the Applicant had covered his face. The guard, who was the Complainant, had a fear of the Applicant acting under the influence of a gang and declined to identify the Applicant during the TIP proceedings.

4.4. In such circumstances, the prosecution apprehends that if the Applicant were enlarged on the bail, he would threaten the witnesses and the Complainant which would then affect the case of the prosecution.

4.5. As regards the offence under Section 307 of the IPC, Mr. Kumar states that the said offence was added on account of the statement made by the Complainant who had stated that the assailants had shot him which, therefore, attracts Section 307 of IPC.

5. The Court has considered the facts and the submissions advanced. The investigation is complete, chargesheet has been filed and the matter is at the stage of framing of charges. As per the latest Nominal Roll, as on 12th March, 2025, the Applicant is in custody for 1 year, 3 months and 5 days. It



is also noted that the overall jail conduct and the Applicant's jail conduct for the last one year is satisfactory.

6. The prosecution relies on CCTV footage of the incident, which purportedly shows two individuals with covered faces firing at the gate of Mr. Deep Malhotra. However, the footage exhibited before the Court does not clearly reveal the shooter's identity. Moreover, the forensic analysis of the CCTV footage and the CDR analysis of the Applicant's mobile phone is still pending, and, therefore, the Court refrains from drawing any conclusions at this stage.

7. Additionally, a firearm was allegedly recovered at the instance of the Applicant from a location near the crime scene, described as *Ganda Nala*. However, as per the FSL report, the recovered firearm does not match the fired exhibits sent for forensic examination. A copy of the said report has been handed over across the Board and is taken on record.

8. Pertinently, the Applicant has not been conclusively identified in the CCTV footage. The case against him thus, primarily rests on the disclosure statements of the co-accused and the CDR analysis. Whether the co-accused's statements are sufficient to implicate the Applicant will be determined during trial. At this juncture, the Applicant can be given benefit of doubt.

9. It is also to be noted that the offence under Section 307 of the IPC was added later, based on a subsequent statement made by the Complainant. At the initial stage, the Complainant did not allege the ingredients of the offence under Section 307, which is the reason it was not included in the FIR. This sequence of events raises questions about the *prima facie* nature of



the allegations under Section 307 of IPC, further justifying the Applicant's release on bail.

10. Considering the overall facts and circumstances of the case, and the fact that the Applicant does not have any criminal antecedents, the Court is inclined to enlarge the Applicant on bail on furnishing a personal bond for a sum of INR 50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. 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;
- c. The Applicant shall under no circumstance leave the bounds of Delhi NCR without informing the concerned IO;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. 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.
- f. The Applicant shall, after his release, appear before the concerned IO/SHO on the first and fourth Monday of each month;
- g. 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.

11. 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.

12. 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 the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

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

SANJEEV NARULA, J

MARCH 21, 2025/ab