

(2025) 07 DEL CK 0934

In the Delhi High Court

Case No : Bail Application No. 4481 Of 2024

Amit Kumar Yadav

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 18-07-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 483
Code of Criminal Procedure, 1973 — Section 161, 164, 439
Indian Penal Code, 1860 — Section 34, 364A, 392, 397, 412
Arms Act, 1959 — Section 25, 27, 30, 54, 59

Citation : (2025) 07 DEL CK 0934

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Sunil Dalal, Jujhar Singh, Bhushan Arora, Shreyas Malik, Nikhil Beniwal, Shipra Bali, Riya Rana, Sumit Jain, Tanu Yadav, Shoaib Haider

Final Decision : Disposed Of

Judgement

Neena Bansal Krishna, J

1. Third Bail Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 439 of the Code of Criminal Procedure, 1973) has been filed on behalf of Amit Kumar Yadav for grant of Regular Bail in FIR No. 0461/2021 dated 19.11.2021 under Section 364A/392/397/412/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Section 25/27/54/59/30 of Arms Act, registered at Police Station Paharganj, District Central.

2. Briefly stated, the Applicant has submitted that he had filed various Bail Applications earlier before the learned Trial Court but all were dismissed. He had filed two earlier Bail Applications before this Court, which have also been dismissed. The Second Bail Application before this Court, was withdrawn vide Order dated 31.07.2024 with liberty to approach the Competent Court, after all the remaining public witnesses were examined.

3. Thereafter, Applicant moved an Application under Section 483 B.N.S.S., before the learned Trial Court, for Regular Bail but the same was dismissed vide Order dated 02.12.2024. Hence, the present Bail Application has been filed for grant of Regular Bail.

4. It is submitted that the Applicant is a young married man of about 34 years and is the sole bread earner of the family comprising of his two minor children, aged about 10 years and 06 years respectively. He has clean antecedents and has never been involved in any case.

5. He was unlawfully arrested in this case on 19.11.2021 and since then, has been in jail. Given the anticipated duration of trial, continued incarceration of the Applicant, would serve no fruitful purpose. The testimony of all the key material and public witnesses has already been recorded and there is little likelihood of him tampering the evidence or influencing the witnesses. There is minimal risk of the Applicant absconding in case the Bail is granted.

6. It is further submitted that all the recoveries were effected from the co-Accused persons and nothing was recovered from his possession. As per the Statement of the Ghanshyam @ Bittu/Victim given under Section 161 Cr.PC, the victim was rescued from the Accused persons from Sector-23, Dwarka. However, location of victim, Ghanshyam and Shailender (eye witnesses), who accompanied the Raiding party of the Police, was never at Sector-23, Dwarka, which casts a doubt on the Prosecution story. It is asserted that the Charge-Sheet is based on a concocted case and the Applicant has been implicated falsely.

7. The CCTV footage, which has been taken on record, to prove the presence of the Applicant at the place of commission of alleged offence, is not clear and the face of the Applicant is not visible in the CCTV footage. No TIP was conducted to establish the identity of the Applicant. Furthermore, no public witness has been examined regarding the presence of the accused persons in CCTV footage.

8. The Supplementary Charge-Sheet filed in the present Case, is contradictory to the main Charge-Sheet. The Personal Search Memo of the Applicant, shows the recovery of one SIM number, but in the Supplementary Charge-Sheet, the Investigating Officer has placed on record CDRs of two SIM numbers, which have been shown to have been recovered from the Applicant, even though they do not belong to him. This shows that the investigation carried out by the Police, cannot be relied upon and that the Applicant has been implicated falsely in this Case.

9. Since the dismissal of last Bail Application, all the public witnesses have been examined and their testimony are contradictory to the case of the Prosecution, which further goes on to show that the Applicant has been implicated falsely.

10. Reliance has been placed on Sh. Sumer Singh vs. State, Bail Application No. 750/2007 and Suraj vs. State, Bail Application No. 3082/2021, both of the Co-ordinate Bench of this Court wherein it was observed that at the stage of Bail in depth analysis of the testimony of the witnesses is not to be undertaken.

However, the Court can have bird's eye view of the evidence, which is on record.

11. It is further submitted that the Orders dated 19.11.2021 and 27.02.2023 vide which his services as Constable in Delhi Police, was terminated, have been set-aside by the Central Administrative Tribunal vide Order dated 06.09.2024 and he has been directed to be reinstated from the date of his dismissal i.e. 19.11.2021 with all consequential benefits in accordance with the Rules.

12. Reliance has been placed on *Seema Singh vs. CBI & Anr.*, Criminal Appeal No. 570/2018 wherein it was observed that even though the Charges against the Applicant, are serious but that in itself cannot be a ground to deny him the benefit of Bail.

13. Likewise, in *Dataram Singh vs. State of Uttar Pradesh & Anr.*, Criminal Appeal No. 227/2017, the Apex Court held that the fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent unless found guilty. Another important facet of criminal jurisprudence is that grant of Bail is a general rule and putting a person in jail, is an exception. Some of these principles have been lost sight, resulting in more and more persons being incarcerated for a longer periods. It was further observed that there is a necessity to introspect whether denying Bail to an Accused person is the thing to do on the facts and circumstances of a Case. The triple test must be considered before denying the Bail. The additional factors of, he being a first time offender or the nature of offences or his genuine conduct and his indigent status may also be required to be considered while considering the Application for Bail.

14. Humane attitude is required to be adopted by the Judge while remanding a suspect or an Accused to judicial custody as observed by the Apex court in *Re-inhuman Conditions in 1382 Prisons* 2017 10 SCC 658, wherein it was held that there are several reasons that the court is required to consider such as including maintaining the dignity of an Accused; howsoever poor that person may be, considering the enormous overcrowding in prisons, leading to social and other problems.

15. Reliance has also been placed on *Nikesh Tarachand Shah vs. Union of India; Narendra Singh and Another vs. State of M.P.*, (2004) 10 SCC 699; *S.Ganesan vs. Rama Raghuraman*, (2011) 2 SCC 83. Hence, a prayer is made that he may be granted Bail in FIR No. 0461/2021 dated 19.11.2021 under Section 364A/392/397/412/34 IPC and Section 25/27/54/59/30 of Arms Act, registered at Police Station Paharganj, District Central.

16. Status Report has been filed by the State wherein the details of the investigations and the role of the Applicant, have been detailed. It is submitted that considering the involvement of the Applicant, which is established from the evidence collected during the evidence, the Bail Application be dismissed.

17. Submissions heard and the record perused.

18. The brief facts of this Case are that the Complainant namely Sandeep Kumar Malviya, gave a statement that on 18.11.2021 in evening, he received a call from his employee, Shailender, who works in his NGO and told that at about 01:45 p.m, three unknown persons had forcibly taken Ghanshyam @ Bittu from the Office of the NGO by showing a revolver. They had also taken the mobile phones of three girls, namely, Jyoti, Suhan and Sunandan working in the Office. Further, they have made a demand of Rs.5,00,000/-or else they have threatened that Ghanshyam would be shot dead. The Complainant despite efforts, was not able to reach the phone of Ghanshyam Gupta.

19. On his Complaint, FIR No. 0461/2021 dated 19.11.2021 under Section 364A/392/397/412/34 IPC and Section 25/27/54/59/30 of Arms Act, was registered at Police Station Paharganj, District Central.

20. During the course of investigations, the Investigating Officer came to know that the kidnappers were asking the Complainant, to come to Dwarka, Sector-23 with money. Raiding Team was constituted which reached the destination. In an abandoned place, the Accused persons along with victim were found in an Alto car registration No. DL 9C AP 4603. The victim was found sitting in the rear seat between two Accused persons, namely, Tejwinder and Amit Kumar Yadav while Pardeep Pardhan was occupying the driver seat. All the three Accused were arrested. The abducted Complainant was thus, recovered.

21. During investigations, it was found that the Accused Pardeep Pardhan was posted as Sub-Inspector, Special Judge, Janak Puri, Delhi while Amit Kumar Yadav was posted as Constable in District Central, Delhi and Tejwinder was a retired Army personnel and dismissed from Delhi Police. All three robbed mobile phones and one revolver with six live cartridges were recovered from the possession of Accused, Tejwinder. Statement under Section 164 Cr.P.C., of the Complainant, was recorded.

22. The Applicant is in judicial custody since 19.11.2021. The statement of the Complainant/Victim and all material witnesses has already been recorded under Section 161 Cr.P.C. Admittedly; the Applicant who had been dismissed from the Delhi Police has been reinstated by the Orders of Central Administrative Tribunal.

23. Considering the totality of circumstances as discussed above, no fruitful purpose would be served keeping the Applicant in jail.

24. The Applicant is granted Regular Bail, on the following terms and conditions:

a) The Petitioner/Applicant shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.

b) The Petitioner/ Applicant shall appear before the Court as and when the matter is taken up for hearing;

c) The Petitioner/Applicant shall provide his mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;

d) The Petitioner/Applicant shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.

e) In case the Petitioner/Applicant changes his residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.

25. The copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court.

26. The Bail Application is accordingly disposed of.