

(2025) 04 DEL CK 1007

In the Delhi High Court

Case No : Bail Application NO. 3820 Of 2024

Arbaz Khan

APPELLANT

Vs

State (Govt. Of Nct Of Delhi)

RESPONDENT

Date of Decision : 15-04-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 483
Indian Penal Code, 1860 — Section 34, 392, 394

Citation : (2025) 04 DEL CK 1007

Hon'ble Judges : Shalinder Kaur, J

Bench : Single Bench

Advocate : Siddhant Sharma, Prafull Bhardwaj, Tarang Srivastava

Final Decision : Dismissed

Judgement

Shalinder Kaur, J.

1. The present application has been preferred under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), seeking grant of Regular Bail in FIR No. 945/2023 (hereinafter referred to as "subject FIR"), registered at the Police Station D.B.G. Road, for offences punishable under Sections 392, 394 and 34 of the Indian Penal Code, 1860 (hereinafter referred to as, "IPC").

2. As per the prosecution's case, on the evening of 05.11.2023, at approximately 8:00 p.m., while the complainant was returning to her home from her tuition, she was accosted by two individuals riding a black coloured Scooty, who snatched her mobile phone. The complainant, in an effort to retrieve her belonging, held on to the vehicle, resulting in her being dragged along the road for a certain distance.

3. It is stated that shortly thereafter, on encountering two police personnel stationed ahead, the petitioner, who was riding pillion on the Scooty, disembarked and fled the scene, while the co-accused, who was driving the

vehicle, was apprehended with the assistance of members of the public.

4. The complainant sustained certain injuries in the course of the incident and was, thereafter, taken to the Hospital in a (PCR) vehicle. Based on her statement, the subject FIR came to be registered. During the course of the investigation, while the co-accused was taken into custody, the petitioner was found to be absconding. On 08.12.2024, the petitioner approached the Court of learned District and Sessions Court, Tis Hazari, by way of an application seeking Anticipatory Bail. The said application, however, was withdrawn.

5. Subsequently, on 12.01.2024, the petitioner was formally arrested and remanded to Judicial Custody, on 13.01.2024, a bail application was moved by the petitioner before the learned Trial Court, which came to be dismissed vide Order dated 01.03.2024, leading to the filing of the present application. The Charge-sheet in the present case on 02.02.2024 has been filed and the Charges are stated to have been framed.

6. The learned counsel for the petitioner submits that the petitioner has clean antecedents, as is evident from the Charge-Sheet and the nominal roll, however, submissions to the contrary had been made before the learned Trial Court resulting in dismissal of petitioner's Bail Application.

7. He submits that the Test Identification Parade (TIP) was conducted after almost 105 days of the date of occurrence of the incident and there is no CCTV footage regarding the incident as well. Considering these circumstances as also the incarceration period of the petitioner, he be released on bail.

8. Opposing the bail application, the learned APP for the State submits that as per the MLC of the complainant, the injury has been defined as a "grievous injury", therefore, the petitioner does not deserve any leniency.

9. The learned APP submits that the complainant has not been examined as yet, thus, the petitioner may tamper with evidence and the witnesses, if he is released on bail, as he resides in the same locality.

10. Having heard the learned counsel for the petitioner as well as the learned APP for the State and also examined the record, it may be noted that the sum and substance of the allegation against the petitioner herein is that he was riding pillion on the Scooty while he and the co-accused snatched the mobile phone from the hand of the complainant and dragged her along when she attempted to recover her mobile phone. In this process, the complainant/victim suffered 'grievous injuries'.

11. Thus, the act alleged against the petitioner is both brazen and disturbing. The complainant, a minor girl at the time of commission of the offence, in a natural attempt to retrieve her belonging attempted to resist. Rather than desist, the petitioner chose to drag along the complainant, all for the sake of a mobile phone, and caused harm to the complainant. Further, there is no suggestion of the fact that the petitioner, at that stage of this incident tried to stop his Scooty

to prevent the petitioner from being dragged along with the Scooty. Above that, the petitioner fled from scene, although the co-accused was apprehended by the police. The petitioner, on 12.01.2024, moved his surrender/bail application before the learned MM and was consequently taken into custody on the same day.

12. Keeping in view the above facts and circumstances of the present case, coupled with the fact that the complainant/victim has not yet been examined, as a witness, being a material witness of the case, the possibility that the petitioner may influence her or temper with evidence if released on bail, cannot be ruled out. Thus, this Court, at this stage is not inclined to enlarge him on bail till all the material witnesses have been examined.

13. Accordingly, the present bail application stands dismissed.