

(2025) 10 DEL CK 1239

In the Delhi High Court

Case No : Bail Application No. 2287 Of 2025

Nafees Haddi

APPELLANT

Vs

State Gnt Of Delhi

RESPONDENT

Date of Decision : 08-10-2025

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 307, 385, 506

Citation : (2025) 10 DEL CK 1239

Hon'ble Judges : Ravinder Dudeja, J

Bench : Single Bench

Advocate : Vineet Jain, Aman Usman, Amit Chadha, Atul Kumar Sharma, Mohd. Qasim, Aditya Raj, Nitin Kumar, Ankit Yadav, Haryas Singh, Dhruv Tomar, Kartik Shoukeen

Final Decision : Allowed

Judgement

Ravinder Dudeja, J

1. The petitioner Nafees @ haddi, has moved the present application seeking regular bail in case FIR no. 429/2023 registered under sections 307/385/506/120-B/34 IPC at PS Chandni Mahal.

Factual matrix:

2. On 05.11.2023, a quarrel broke out at H.No. 1196, Rakabganj, Chandni Mahal, Delhi, between the complainant Mohd. Tahir, his nephew Anas and family, and their neighbours Mohd. Rehan, Irfan, Noman, and associates including Gayasuddin. The dispute arose from prior enmity, extortion demands of ₹ 5 lakhs, and earlier criminal cases registered by Tahir against them. In the attack, Tahir was beaten with fists and a bat while his nephew Anas suffered multiple grievous head injuries caused by repeated blows with a wooden bat. Later, at LNJP Hospital, Rehan, co-accused and his associates alongwith the present applicant again attacked Anas with a surgical blade. Weapons, bloodstained clothes, and CCTV footage were seized during investigation, Gayasuddin

confessed to acting at the behest of the three brothers, and the aforesaid FIR under Sections 307/385/506/120-B/34 IPC was registered.

3. Applicant Nafees, though not attributed with causing direct injuries, is shown to have acted in concert with the main accused, Rehan.

Submissions on behalf of the applicant:

4. The learned counsel, who appeared for the applicant, submitted that the applicant has been in judicial custody for the last more than one and a half years without any remission of interim bail. He has no previous conviction in his name and has deep roots in the society. He is on bail in previous 2-3 cases planted against him. Due to his being in custody, his family is at the verge of starvation.

5. It has been further submitted that till date, only 4-5 witnesses have been examined out of 36 witnesses cited by the prosecution, and thus, the trial is not likely to be concluded in the near future. It is further submitted that the complainant and his family are having grudge against the applicant and co-accused. Two false FIRs bearing No. 69/2012 & 79/2012 were previously registered against them at the instance of the complainant. However, the charges were not proved and they were acquitted in both the cases.

6. It has been further submitted that the complainant, with his mala fide intention and in a pre-planned manner, implicated the applicant and other persons in the alleged commission of crime, for which, the applicant has nothing to do with the same and most importantly, the conduct of the complainant is very shaky and unreliable, as after the alleged incident, he did not choose to contact the police or met the police officials for 15-16 hours and that FIR has been lodged after a delay of 24 hours.

7. It is also submitted that the applicant, who is the next door neighbour of the complainant, was already known to the complainant since before the alleged incident, but in the FIR, the name of the applicant does not figure. It is contended that the depositions of PW-1 and PW-4, including that of the complainant and injured, do not attribute any role to him and there are contradictions in the testimonies regarding the timing and role of the accused persons. It is further submitted that three other co-accused, who are similar or rather more seriously implicated, have already been granted bail, and therefore, the present applicant is also entitled for grant of bail on parity.

Submissions on behalf of the State/Respondent

8. The learned APP, assisted by the learned Senior Counsel, has opposed the bail application submitting that applicant in connivance with the main accused Rehan, hatched a conspiracy to escape from the hospital and again come back with intention to kill the complainant's nephew Anas. Co-accused Rehan @ Gaonwala used surgical blade to attack Anas while the applicant instigated by exhorting "Maaro".

9. It has been submitted that there is involvement of another accused Salman, who has been declared as Proclaimed Offender in the present case and whose anticipatory bail has been dismissed by the High Court and his evading his arrest. He submitted that there is a genuine apprehension that applicant may threaten the witnesses and is a threat to the complainant because both are the residents of the same locality.

10. It is also submitted that although Irfan and Gayasuddin have already been granted bail by the High Court, but the present applicant and the co-accused Rehan and Salman were involved in assaulting Anas with surgical blade at the hospital, which shows that they are much more desperate than the previously released criminals.

11. It is further submitted that the applicant has past criminal history which shows that he is a habitual offender and will repeat the same type of offence again.

Analysis & Conclusion

12. The case pertains to two incidents of assault. As per the status report, co-accused Rehan is the main accused, who was involved in both the incidents of assault. The applicant was not involved in the first incident of assault. The only role attributed to him is that he exhorted the co-accused persons by saying "Maaro" while co-accused Rehan had inflicted blows with surgical blade upon injured Anas at the hospital. The recovery of weapon is from co-accused Rehan and not from Anas. There is no allegation that applicant had caused any injury to the victim.

13. Co-accused Shahzada @ Irfan and Gayasuddin, who were involved in the first incident of assault directly, have already been enlarged on bail by this Court vide order dated 20.05.2025. In such circumstances, the principle of parity weighs in favour of the present applicant, particularly when, no overt act of inflicting injuries or possession of weapon is attributed to him.

14. Applicant has been in judicial custody since his arrest on 16.11.2023. During this period only, 4-5 out of 36 witnesses cited by the prosecution, have been examined. Thus, the trial is not likely to conclude in near future. Prolonged incarceration, despite the absence of any direct overt act and coupled with the fact that co-accused have already been granted bail, tilts the balance in favour of the applicant's liberty. The apprehension of misuse of liberty can be addressed by imposing stringent conditions.

15. In view of the distinct and limited role of the applicant, his prolonged custody and grant of bail to similarly placed co-accused, the Court is of the considered opinion that applicant deserves the concession of bail. Accordingly, the present application is allowed and the applicant Nafees @ Haddi is admitted to regular bail upon his furnishing a personal bond of Rs. 30,000/- with a surety of the like amount to the satisfaction of the Trial Court/Duty Magistrate, subject to the

following conditions:-

- a) that applicant shall cooperate the trial court during the trial of the case;
- b) that applicant shall not try to contact any of the prosecution witnesses and shall not directly or indirectly threaten or intimidate them;
- c) that applicant shall furnish his present and permanent address to the IO and shall not leave Delhi/NCR without the permission of the trial court and shall also share his mobile number with the IO, which shall remain operational during the trial;
- d) that in case of change of the residential addresses/mobile number, the applicant shall intimate the same immediately to the IO and the trial court.

16. In view of the above, the petition along with pending application (s), if any, stands disposed of.

17. Nothing stated herein shall tantamount to be an expression on the merits of the case.

18. Copy of this order be sent to Jail Superintendent for information and compliance.