

(2025) 07 DEL CK 0882

In the Delhi High Court

Case No : Bail Application No. 2255 Of 2025

Sadre Alam @ Chotu

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

Date of Decision : 10-07-2025

Acts Referred:

Constitution of India, 1950 — Article 14
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 483
Code of Criminal Procedure, 1973 — Section 439
Bharatiya Nyaya Sanhita, 2023 — Section 3(5), 109(1)
Indian Penal Code, 1860 — Section 307
Arms Act, 1959 — Section 25, 27

Citation : (2025) 07 DEL CK 0882

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Vishal Raj Sehijpal, Priyanka Sehijpal, Anwar Ahmed Khan, Utkarsh

Final Decision : Disposed Of

Judgement

Neena Bansal Krishna, J

CRL.M.A. 18080/2025

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

BAIL APPLN.2255/2025

3. First Bail Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'B.N.S.S.') (old Section 439 of the Code of Criminal Procedure, 1973) (hereinafter referred to as 'Cr.P.C.') has been filed on behalf of the Petitioner, Sadre Alam @ Chotu, for grant of Regular Bail in FIR No. 850/2024 under Section 109(1) of Bharatiya Nyaya Sanhita (hereinafter referred to as 'B.N.S.') and Section 25/27 of Arms Act, registered at Police Station Bhalswa Dairy.

4. It is submitted in the Bail Application that the Petitioner is a law-abiding citizen, who has been falsely implicated in this case. He is in judicial custody since 21.10.2024. The Petitioner is a resident of Delhi and is gainfully employed as an e-rickshaw driver/mechanic. He has deep roots in the society and is not a flight risk.

5. His Bail Application was dismissed vide Order dated 04.06.2025 by the Ld. ASJ, without considering crucial facts and circumstances.

6. It is further submitted that present FIR No. 850/2024 was registered on the Complaint of one Aniket @ Tindi, who alleged that the Petitioner had fired at him on the intervening night of 20/21.10.2024 at around 11:00 P.M. near C-5, Mosque, J.J. Colony, Bhalswa Dairy, Delhi. The FIR No. 850/2024, however, was not registered immediately after the incident, but on the next day.

7. It is asserted that the allegations made in the FIR No. 850/2024, are ex facie false and motivated. The Petitioner in fact, is a victim of a brutal assault at the hands of the Complainant's associates, which led to the registration of Cross-FIR No. 853/2024 under Sections 109(1) and 3(5) B.N.S. in the same Police Station. This Cross-FIR No. 853/2024 is claimed to have been registered on the basis of the alleged disclosure of the Petitioner recorded during the interrogation in the present FIR and the Police has not acted fairly. He was in fact, attacked with the surgical knife by the friends of Aniket @ Tindi, who also used wooden planks resulting in serious injuries on his face.

8. The Petitioner was taken to BJRM Hospital by his wife and was referred to LNJP Hospital because of the nature of injuries. MLC was prepared wherein it was recorded that he had a stab wound and other physical injuries. His Statement was recorded after being discharged from the hospital forming the basis of Cross-FIR No. 853/2024.

9. It is submitted that all the Accused persons have already been granted Bail in the said FIR.

10. It is further submitted that the incident giving rise to both the FIRs occurred out of a sudden quarrel and mutual enmity between the two groups. There was no premeditated intent on the part of the Petitioner. The allegations against the Petitioner are retaliatory and aimed at projecting him as a hardened criminal.

11. It is further submitted that the investigations are already complete and the Charge-Sheet has already been filed in the Court. Aniket @ Tindi is the main prosecution witness. However, no independent witness has come forward to corroborate his version. Even the Crime Team Report did not indicate any recovery from the Petitioner.

12. The alleged recovery of country-made pistol with live cartridges has not been affected from the Petitioner. According to the Status Report of the State, the recovery has been made at the instance of opposite party, Accused Imran @ Murad in Cross-FIR No. 853/2024. The claim of the Prosecution that the weapon

was used by the Petitioner is baseless and unsubstantiated. The weapon of offence is not linked to the Petitioner. The Petitioner, therefore, cannot be kept in jail endlessly while all Accused in the Cross-FIR, are on Bail.

13. The Petitioner has further asserted that he has a presumption of innocence and his previous involvement in FIR No. 173/2019, Police Station Bhalswa Dairy, cannot be a ground to justify prolonged incarceration. In any case, he stands acquitted in the said Judgment dated 02.09.2019 of learned ASJ, Rohini.

14. It is submitted that while dismissing the Bail Application, Ld. ASJ has put undue emphasis on the past involvement and has failed to appreciate that it is a case of Cross-FIRs, in which the Petitioner also has suffered serious injuries.

15. The Petitioner is the only person, who continues to be in custody. The principle of parity applies to the present case. The continued incarceration of the Petitioner is discriminatory and violative of Article 14 of the Constitution of India.

16. Reliance has been placed on *Satender Kumar Antil vs. CBI*, (2022) 10 SCC 51 wherein it has been observed that the pre-trial detention should not become punitive and that Bail is a rule and not exception.

17. There is no likelihood of Petitioner absconding from trial. He is willing to abide by any of the conditions that may be imposed by the Court. There is no likelihood of Petitioner tampering the evidence or influencing the witnesses. It is, therefore, submitted that he may be granted Bail.

18. The Status Report has been submitted today in the Court wherein the details of investigations and the filing of Charge-Sheet, are mentioned. It is further submitted that as per the MLC, Aniket @ Tindi, the injured had received simple injuries. The Bail was opposed on the ground that the offence committed is heinous. He has previous involvement in four criminal cases. If release on Bail, he may threaten the public witnesses or may get involve in crime. There is possibility of his jumping the Bail, which can also not be ruled out. The Bail is, therefore, opposed.

19. Submissions heard and the record perused.

20. As per the Case of the Prosecution, the Complainant, Aniket @ Tindi, a few days prior to the incident, had seen the messages written by younger brother of Ibrahim to the sister of his friend, Qayum, and on this account, he along with Qayum, Sameer and Jatin, had slapped the younger brother of Ibrahim. Ibrahim along with his friend, Petitioner, Sadre Alam @ Chotu, then fought with the Complainant, Aniket and his friend, Qayum and threatened him. On the night of 20/21.10.2024 at about 11:00 PM, while he was strolling, the Petitioner pointed the pistol at him from behind while saying that he would teach him a lesson. He immediately turned on which, he fired from his pistol and he sustained injuries in his thigh. After shooting, Sadre Alam @ Chotu ran away. He made a Complaint and was admitted in the hospital.

21. Apparently, the story did not end there. After this first incident, which took place at 11:00 PM, Sadre Alam @ Chotu, the Applicant got surrounded by Qayum, Murad, Sameer and Sajid (who were the friends of injured Aniket @ Tindi) who gave beatings to the Petitioner herein. Sameer gave him beatings with the wooden plank while Murad, who had a surgical blade, tried to inflict injuries on which he bent a little and the surgical blade hit him on his neck. On his Complaint, the Cross-FIR No. 853/2024 was registered.

22. From the series of events as narrated above, it is evident that the first incident occurred when the Petitioner was the aggressor and had fired at Aniket @ Tindi, who suffered injuries. In retaliation, the friends of Aniket @ Tindi, had attacked the Petitioner and caused injuries to him and on his Statement, Cross-FIR No. 853/2024 was registered.

23. It is a case where Cross-FIRs have been registered. As has been stated, it was a premeditated fight. The Charge-Sheet has been filed. All the co-accused persons have been admitted to Bail. Though, there were three earlier FIRs registered against the Petitioner in the year 2016, 2018 and 2021, under the Excise Act, and fourth FIR No. 173/2019 under Section 307 IPC and under Section 25/27 of the Arms Act, but the Petitioner has already been acquitted vide Judgment dated 02.09.2019.

24. Considering that the Petitioner is in judicial custody since 20.01.2024 and that investigations stand completed and the Charge-Sheet filed and also that in the Cross-FIR, all the Accused have been granted Bail, the Petitioner herein is granted Regular Bail, on the following terms and conditions:

- a) The Petitioner/Accused shall furnish a personal bond in the sum of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The Petitioner/Accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The Petitioner/Accused 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/Accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case, the Petitioner/Accused 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 along with pending Applications is accordingly, disposed of.