

State Vs. Nafees @ Haddi

CNR No.: DLCT01-002278-2024

SC No.: 109/2024

FIR No.: 429/2023

Under Sections: 307/385/506/120B/34 IPC

P.S.: Chandni Mahal

30.05.2025

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Sanjay Kumar, Ld. Counsel for the
applicant/accused, namely, Nafees @ Haddi.
Mr. Virender Singh, Ld. Counsel for the
complainant.

ORDER

1. This is fourth bail application moved on behalf of the applicant, namely, Nafees @ Haddi (*'applicant/accused'* for short), in terms of provision under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*), seeking regular bail. Pertinently, the last bail application of the applicant was dismissed by this Court *vide* order dated 19.03.2025.

2. Learned Counsel for the applicant has submitted, at the outset, that the applicant has no role in the commission of alleged offence. Ld. Counsel further submitted that the applicant has been falsely implicated in this case as he is a close relative of other co-accused. It was further submitted by Ld. Counsel that the applicant was neither present at the spot on the alleged date and time nor has any role in the commission of alleged offence. Ld. Counsel further submitted that two of the accused persons in the instant case have been granted bail by the Hon'ble High Court of Delhi *vide* order dated 20.05.2025. Ld. Counsel has further submitted that there is change of circumstances since the dismissal of applicant's last bail application as the earlier bail application was dismissed after the examination in chief of PW-1

while after the dismissal of said application, evidence of PW-1 to PW-4 *i.e.* the family members and eye witnesses have already been concluded. Further, as per Ld. Counsel, there are material contradictions in the statement of said witnesses. Even otherwise, as per Ld. Counsel, nothing was recovered from the possession of the applicant or at his instance and the recovery, if any, has been planted upon the applicant by the police officials. It was further submitted that since the investigation in the instant case has already concluded as well as, the evidence of material public witnesses has concluded, no useful purpose would be served in keeping the applicant in continued detention. Ld. Counsel further submitted that the applicant is the sole bread earner of his family and in his absence his whole family is under grave hardships. Ld. Counsel further submitted that there are no chances of the applicant absconding/fleeing from justice, if admitted to bail. Lastly, it was submitted by the Ld. Counsel that applicant is ready to abide by the terms imposed by this Court while granting bail, including cooperating with the investigating authorities for further investigation, as and when summoned/ requisitioned. In support of the said contentions, reliance has been placed upon the decisions in *Nitin v. State of GNCT (2020) 2 SCC 135*; and *Tippinees Malathu Joseph v. State, Bail Appl. No. 2814/2019, dated 04.06.2020*.

3. *Per contra* Ld. Addl. PP for the State vehemently opposed the present application on the ground that the applicant was actively involved in the commission of offence in the instant case, being a grave offence. It was further submitted that in case bail is granted to the applicant, there are chances that is a reasonable likelihood of flight risk of the applicant, considering the past conduct and applicant's involvement in multiple cases

and the applicant is stated to be a BC of PS Chandni Mahal. Ld. Addl. PP for the State further submitted that the applicant is clearly seen in the seized CCTV footage seized while moving to the place of occurrence along with co-accused Rehan. Further, as per the Ld. Addl. PP for the State there has been no change of circumstance(s), since his last bail application was dismissed by this Court. Further, as per Ld. Addl. PP for the State, the public witnesses have corroborated the case of prosecution and have identified the applicant as one of the perpetrator before the Court. Pertinently, Ld. Counsel for the complainant supplemented the said arguments of Ld. Addl. PP for the State.

4. The arguments of Ld. Counsel for applicant, Ld. Counsel for the complainant and that of Ld. Addl. PP for the State, heard as well as case record(s) have been thoroughly perused.

5. At the outset, this Court observes that the principles of *res judicata* do not apply to bail application meaning thereby successive bail application can be filed. However, under such circumstances it is incumbent on the court(s) entertaining such subsequent bail applications, *“to record” what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.*” Therefore, being wary of the aforesaid, this Court outrightly observes that all the contentions of the Ld. Counsel for the applicant have already been dealt with at the time of dismissal of the applicant’s earlier bail application on 19.03.2025 and that the Ld. Counsel has failed to demonstrate any material change in circumstances ever since. Suffice it is for the present purpose to note that from a perusal of the documents placed on record, in particular, from the statement of the

¹ *Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528*

complainant, the applicant's complicity and active role in the commission of offence *prima facie* stands established, in so far as the applicant is stated to be *inter alia* involved in causing grievous injury to injured, Mohd. Anas, with a use of a surgical blade. Further, the complainant as well as the injured have correctly identified the applicant as one of the perpetrator of the alleged offence, during their evidence before the Court. Lastly, in as much as the contention of the Ld. Counsel regarding the applicant's alleged parity with co-accused persons is concerned, this Court unambiguously observes that it is trite law² that in deciding the case of parity, the role attributed to the accused in relation to the incident and to the victim is considered to be of utmost importance. At the same time, parity applies in granting bail to an accused, where the co-accused has been granted bail on similar set of circumstances, which is not the case here.

6. Consequently, in conspectus of the above and further keeping in view the nature and gravity of the offence; the fact of applicant is involved in a crime of heinous nature; role and complicity of the applicant as well as the *prima facie* incriminating evidence brought on record against him; reasonable apprehension regarding the applicant's fleeing from justice, considering the seriousness of offence involved; and the impact of the offence on the society, this Court does not deem it fit to grant bail to the applicant at this stage. Needless to reiterate, the applicant has failed to demonstrate any material change in circumstance since the dismissal of his earlier/last bail application by this Court. Needless to observe that though, this Court holds highest regard for the decision(s) relied upon by the

² *Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana*, (2021) 6 SCC 230 and *Narayanaswamy v. State of Karnataka*, 2017 SCC OnLine Kar 1066

Ld. Counsel for the applicant, however, none of the said decision(s) would come to the aid of the applicant in the manner as averred, as the facts and circumstances of the present case are clearly distinguishable. Needless to reiterate in this regard, the question of grant or refusal of bail depends upon a determination of several factors, which ultimately depends upon the specific/unique facts and circumstances of each case before Court.

7. Accordingly, the present application under Section 483 BNSS for regular bail *qua* the applicant Nafees @ Haddi is ***dismissed***.

8. It is clarified herein that the observations made in the present order are only limited for the purpose of deciding the present application of and would have no bearing on the factual matrix of the present case, which is a separate issue to be determined as per law.

9. A copy of the present order be given ***dasti*** to the Ld. Counsel for the applicant, namely, Nafees @ Haddi. Further, a **copy of this order be sent to the concerned Jail Superintendent with the direction to hand over** a copy of order to the applicant.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
30.05.2025