

State Vs. Deepak @ Milkha
CNR No. DLCT01-006641-2023
SC No. 297/2023
FIR No. 74/23
P.S. Sadar Bazar

16.10.2025

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. P.K.Garg, Ld. Counsel for the accused, namely,
Deepak @ Milkha.

ORDER

1. This is the fifth bail application moved on behalf of the applicant, namely, Deepak @ Milkha ('*applicant/accused*' for short), 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 04.08.2025.

2. Learned Counsel for the applicant has submitted that the applicant has been languishing in judicial custody since 27.02.2023, without there being any chances of trial getting concluded, anytime in near future. Ld. Counsel further submitted that the applicant is not a previous convict or a habitual offender. Even otherwise, Ld. Counsel submitted that the applicant is the sole bread earner of his family and continued incarceration of the applicant has put his family under grave hardships. It was further submitted by Ld. Counsel that the applicant has been falsely implicated in the present case by the concerned police officials and he has nothing to do with the alleged offence, with which he has been charged with. It was further submitted that the investigation has already concluded; charges have been framed and public witnesses/material witnesses have already been examined and no useful purpose would be served in keeping the

applicant in continued detention, considering that the trial is likely to take considerable time. 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.

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 grave in nature. Further, as per Ld. Addl. PP for the State, the allegations levelled against the applicant are quite serious in nature. It was further submitted by Ld. Addl. PP for the State that the applicant was arrested at the instance of the complainant and six robbed ladies suits were recovered at the instance of the applicant Deepak @ Milkha. Ld. Addl. PP for the State further submitted that the case is at the stage of prosecution evidence and in case bail is granted to the applicant, there are chances of the applicant inducing, threatening and/or coercing the witnesses, besides damaging material evidence. Further, as per the Ld. Addl. PP for the State, there is a reasonable likelihood of flight risk of the applicant, besides there has been no change in circumstance since the applicant's dismissal of last bail application.

4. The arguments of Ld. Counsel for applicant 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.*” Clearly, the only thing to be considered by the court(s) at such a stage is that there must be material, and not cosmetic change in circumstances² convincing the court(s) to grant any indulgence in favour of the applicant. Apposite to further mention here that it has been persistently avowed by various courts³ that mere filing of chargesheet or framing of charges would not amount to material change in circumstances for the purpose of bail. Clearly, the only thing to be considered by the court(s) at such a stage is that there must be material, and not cosmetic change in circumstances⁴. Therefore, being cognizant of the same, this Court 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 applications and that the Ld. Counsel has failed to demonstrate any material change in circumstances ever since. Needless to reiterate that from the material placed on record, in particular, from the statements of the victim and witnesses, the applicant’s complicity and active role in the commission of offence *prima facie* stands established, in so far as the applicant, along with the co-accused persons, is asserted to have committed serious offence of robbery and the applicant was duly identified

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

² *Anil Kumar Bansal v. State*, 2011 SCC OnLine Del 2647

³ *Virupakshappa Gouda v. State of Karnataka*, (2017) 5 SCC 406; *Sunil Gupta v. State of Madhya Pradesh Misc. Crl. Case No. 40317/2021*, dated 13.08.2021 (Hon’ble Madhya Pradesh High Court) and *Prem Singh v. State of Punjab*, 2020 SCC OnLine P&H 1341

⁴ *Anil Kumar Bansal v. State*, 2011 SCC OnLine Del 2647

by the complainant/PW-1 as one of the perpetrator of the offence, before this Court in his examination in chief.

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 past conduct of the applicant, who is found involved in multiple cases of serious turpitude; reasonable apprehension regarding the applicant threatening and/or inducing prosecution witnesses; 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 mention, Ld. Counsel has failed to demonstrate any material change in circumstance since the dismissal of last bail application of the applicant by this Court. Further, this Court is not impressed with the contention of the Ld. Counsel that there has been delay in trial as the proceedings are in its fag end.

7. Accordingly, the present application under Section 483 BNSS for regular bail *qua* the applicant Deepak @ Milkha 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, Deepak @ Milkha. 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
16.10.2025