

State Vs. Rahul Kumar Pal

CNR No.: DLCT01-011251-2022

SC No. 501/2022

FIR No. 111/2022

Under Sections 365/395/342/170 IPC

P.S. Lahori Gate

02.06.2025

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. R.D. Singh, Ld. Counsel for the accused,
namely, Rahul Kumar Pal.

ORDER

1. This present application has been moved under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*), on behalf of the applicant, namely, Rahul Kumar Pal seeking regular bail. Pertinently, the last bail application of the applicant was dismissed by this Court *vide* order dated 04.01.2024 and on 24.09.2024 by the Hon'ble High Court of Delhi.

2. Learned Counsel for the applicant has submitted, at the outset, that the applicant is innocent and has been falsely implicated in the present case and he nothing to do with the alleged offence. Ld. Counsel further submitted that the complainant, initially got registered an e-FIR on 04.04.2022 after a delay of four days under Section 379 IPC, alleging the commission of offence of theft of a sum of Rs. 10 Lacs only, however, subsequently, he had alleged a different version in another statement in which the complainant alleged a robbery amounting to Rs. 65 Lacs. Ld. Counsel further submitted that the statement of complainant is full of contradictions and clearly highlight the concocted story of the complainant, falsely implicating the applicant/accused in the present case. Ld. Counsel further submitted that the complainant/PW-2 has failed

to disclose the source of money, allegedly robbed by the accused persons, despite him being served with a notice under Section 91 Cr.PC by the IO as well as during his statement before the Court. Ld. Counsel further submitted that there are material contradictions and inconsistencies in the statement of the prosecution witnesses. Ld. Counsel further submitted that the applicant was arrested in the present case on 25.04.2022 and ever since his arrest, he is languishing in judicial custody, without there being any chance of the conclusion of trial anytime in near future. Ld. Counsel further submitted that the applicant is a young aged boy about 27 years of age and was serving with U.P. Police as a constable, however, due to his persistent incarceration, his family, including his wife, minor daughter and old aged widow mother, is compelled to live in persistent state of deprivation. Even otherwise, as per the Ld. Counsel, since the investigation in the instant case has concluded, no useful purpose would be served in keeping the applicant/accused in continued detention. As per the Ld. Counsel, there are no chances of the applicant tampering with the prosecution case or fleeing from justice, considering that he had been granted interim bail on earlier occasion and the he never misused the liberty granted to him. Lastly, it was submitted by the Ld. Counsel that the applicant/accused is ready to abide all the terms and conditions imposed by this Court while granting bail, including co-operating the investigating authorities and making himself available for investigation/further investigation, as and when called for.

3. *Per contra* Ld. Addl. PP for the State vehemently opposed the present application on the ground that the applicant/accused 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/accused, there are chances that the prosecution's witnesses would be exposed to threat, coercion and/ or undue influence, especially when the proceedings are/instant trial is still at its nascent stage. Further, as per the Ld. Addl. PP for the State, there is a reasonable likelihood of flight risk of the applicant/accused considering that the applicant/accused is involved in several other cases of serious turpitude, besides there has been no material change in circumstances since the applicant's/accused's earlier bail application was dismissed. Consequently, Ld. Addl. PP for the State submitted that the applicant/accused deserves no indulgence from this Court.

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

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

framing of charges would not amount to material change in circumstances for the purpose of bail.

6. Ergo, wary of the aforementioned, 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 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 his associates impersonated as police official of Uttar Pradesh Police and abducted the complainant in a white Scorpio car and robbed him of Rs. 65,00,000/- along with other articles from him, besides the Scorpio car bearing no. UP 80DJ 0888 was recovered at his instance. Further, the applicant along with other associates are seen in the relevant CCTV footage. Needless to mention, the applicant's CDR also *prima facie* discloses his presence at the place of incident, besides the applicant refused to undergo TIP on the ground that the complainant knows him. Even otherwise, detailed scrutiny of the evidence or evaluation of their truth/veracity can only be undertaken at the stage of final determination and not at the stage of bail, so as to prejudice, either the prosecution's or the defence's case. Nonetheless, the applicant has been specifically identified in the testimony of PW-1 and specific allegations have been attributed against him in the testimony of the said witness. Needless to further mention here that the Ld. Counsel for applicant has failed to demonstrate any material change in

circumstance, since the applicant's earlier bail application was dismissed by this Court.

7. 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; 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.

8. Accordingly, the present application under Section 483 BNSS for regular bail *qua* the applicant Rahul Kumar Pal is ***dismissed***.

9. 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.

10. A copy of the present order be given ***dasti*** to the Ld. Counsel for the applicant, namely, Rahul Kumar Pal. 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
02.06.2025