

State Vs. Saad Mirza @ Fardin
CNR No.: DLCT01-013471-2023
SC No.: 525/2023
FIR No.: 579/2023
PS: Kotwali

02.08.2025

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Ayub Ahmed Qureshi, Ld. Counsel for the
applicant, namely, Saad Mirza @ Fardin.

ORDER

1. This is the second bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*) filed on behalf of accused, namely, Saad Mirza @ Fardin (hereinafter referred to as the '*applicant/accused*'), seeking regular bail. Pertinently, the earlier bail application of the applicant was dismissed by this Court *vide* order dated 29.05.2025.

2. Learned Counsel for the applicant outrightly submitted that the applicant has been languishing in judicial custody since 18.07.2023, without there being any fault on his part. Ld. Counsel further submitted that the applicant is innocent and has been falsely implicated in the present case by the police officials of concerned Police Station and that the applicant has nothing to do with the alleged offence, with which he has been charged with. Ld. Counsel further submitted that 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. Further, as per Ld. Counsel, a quashing petition was filed by the parties before the Hon'ble High Court of Delhi for disposal of the present FIR, which, however was withdrawn. Further, it was submitted by Ld. Counsel that the

investigation *qua* the applicant has already concluded, and the applicant is no more required for any further custodial interrogation and no fruitful purpose would be served by keeping the applicant in judicial custody any further. Further, as per Ld. Counsel, evidence of public witnesses has been concluded and no public witness is remained to be examined. 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 the applicant has clean antecedents and deep roots in the Society and there are no chances of the applicant absconding/fleeing from justice, if admitted to bail. It was further submitted that the applicant has been admitted to interim bail on earlier occasions and he duly surrendered before the concerned jail after expiry of such period and that the applicant never misused the liberty granted to him. 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*, learned 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. Ld. Addl. PP for the State further submitted that the applicant along with his associates committed robbery upon the complainant. Ld. Addl. PP for the State further submitted that part robbed amount was recovered from the possession of the applicant. Ld. Addl. PP for the State further submitted that in case bail is granted, there are chances of

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, making the present application liable to be rejected to the outset, 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. Before proceeding further, this Court iterates the settled law¹ that determination of bail entails the establishment of an equilibrium so as to ensure that no prejudice is caused to the free, fair and full investigation, on one hand, as well as there is prevention of harassment, humiliation and unjustified detention of the accused, on the other hand. Incontestably, liberty of an individual is valuable right, however, it is trite law² that such a protection cannot be absolute and there may be instances where the collective interest of the community may predominate the right³ of personal liberty of an individual. Ergo, it is quite understandable that several factors are required to be considered while granting or refusing bail⁴. Further, strikingly, it is a settled law⁵ that where there are sufficient reasons to have reasonable apprehension that the accused would flee from justice and/or tamper with prosecution evidence, such an accused can be refused bail. Apposite to further note that though, the courts are

¹ *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694 and *Pratibha Manchanda v. State of Haryana*, (2023) 8 SCC 181.

² *Masroor v. State of U.P.*, (2009) 14 SCC 286

³ *Shahzad Hasan Khan v. Ishtiaq Hasan Khan*, (1987) 2 SCC 684

⁴ *Gurcharan Singh v. State (Delhi Admn.)*, (1978) 1 SCC 118

⁵ *Anil Mahajan v. Commissioner of Customs*, 84 (2000) DLT 854

required to give reasons at the stage of determination of bail, however, a detailed examination of evidence and elaborate documentation of the merits of the case is not required⁶ at such a stage. Further, court(s) cannot go into the question of credibility and reliability of the witnesses/evidence put up by the prosecution, which can only be tested during the trial⁷.

6. At the same time, this Court is cognizant of the settled principle of law that, though, there is no embargo under law in the accused moving successive bail applications, however, under such circumstances it is incumbent on the court(s) entertaining such subsequent bail applications, *“to record⁸ 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 circumstances⁹ 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 courts¹⁰ that mere filing of chargesheet or framing of charges would not amount to material change in circumstances for the purpose of bail. On the contrary, filing of chargesheet is held by superior court(s) to be a circumstance against the applicant/accused that the investigation agency has found a case worth trial against him.

7. Apposite to note in this regard that while considering an entreaty for bail, court(s) cannot be oblivious to the impact of grant thereof on the witnesses or the complainant.

⁶ *Jagjeet Singh v. Ashish Mishra*, (2022) 9 SCC 321

⁷ *Satish Jaggi v. State of Chhattisgarh*, (2007) 11 SCC 195

⁸ *Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528

⁹ *Anil Kumar Bansal v. State*, 2011 SCC OnLine Del 2647

¹⁰ *Virupakshappa Gouda v. State of Karnataka*, (2017) 5 SCC 406; *Sunil Gupta v. State of Madhya Pradesh Misc. CrI. 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

In fact, in this regard the superior courts¹¹ have persistently cautioned that the impact of grant on bail on the witnesses, yet to be examined and/or victim is required to be duly considered by court(s), at the stage of such determination. Even otherwise, the superior courts¹² have also avowed that the impact of an offence on the society, equally needs consideration while determining on an entreaty for bail. Needless to further overemphasize that there is also no dearth of precedents¹³ which proclaim that neither a defective investigation/infirmity in investigation nor hostility of the witnesses¹⁴ can be the sole ground(s) for granting bail.

8. Consequently, being mindful of the principles noted hereinabove, this Court observes that the primary contention of the Ld. Counsel for the applicant is that he has been wrongly roped into the present proceedings. However, in this regard it is outrightly asserted that a detailed scrutiny of the evidence or evaluation of their truth/veracity cannot be undertaken at the stage of bail, so as to prejudice either the prosecution's or the defence's case. 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 complainant, 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 co-accused persons committed robbery upon the complainant. Further, part robbed amount of Rs. 2 Lacs was also recovered from the possession of the applicant. Pertinent to note that the applicant has been correctly identified by the complainant, during his evidence before the Court, as one of the perpetrators of the

¹¹ *Sudha Singh v. State of U.P.*, (2021) 4 SCC 781

¹² *Neeru Yadav v. State of U.P.*, (2016) 15 SCC 422.

¹³ *Sompal Singh v. Sunil Rath*, (2005) 1 SCC 1

¹⁴ *Arun Kumar v. State (NCT of Delhi)*, 2023 SCC OnLine Del 3134 and *Krishna Kant v. State of U.P.*, Criminal Misc. Bail Application No. 33329/2020, dated 16.12.2022.

offence in question, besides specific and active role in the commission of robbery has been attributed by the complainant *qua* the applicant by *inter alia* asserting that the applicant pulled out a pistol and pointed the same towards the complainant. Lastly, the contention of the Ld. Counsel for the applicant that the applicant is entitled to bail on the ground that he has earlier been released on interim bail does not find favour of this Court. In fact, in this regard, this Court observed that it is cognizant of the settled law¹⁵ that grant of interim bail and grant of regular bail on merits are two different aspects and simply because the petitioner was on interim bail for a certain period of time does not entitle him to grant of regular bail when the facts of the case speaks otherwise.

9. Consequently, in conspectus of the above and further keeping in view the nature and gravity of the allegations; the fact of applicant is involved in a crime of heinous nature; severity of the punishment which may be inflicted on conviction; evidence of public witness is yet to be concluded; the role and complicity of the applicant as well as the *prima facie* incriminating evidence brought on record against him; manner of commission of offence; reasonable apprehension regarding the applicant's fleeing from justice, considering the seriousness of offence; as well as further considering 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 for the applicant has failed to demonstrate any material change in circumstance, since the dismissal of applicant's last bail application on 29.05.2025.

¹⁵ Sarvesh Singh v. State (NCT of Delhi), 2022 SCC OnLine Del 2651.

10. Accordingly, the present application under Section 483 BNSS for regular bail *qua* the applicant Saad Mirza @ Fardin is ***dismissed***.

11. It is clarified herein that the observations made in the present order are only limited for the purpose of deciding the present application of the applicant herein and would have no bearing on the factual matrix of the present case.

12. A copy of the present order be given ***dasti*** to the Ld. Counsel for the applicant, namely, Saad Mirza @ Fardin. 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
02.08.2025