

State vs. Rajkumar @ Bholu & Ors. (applicant Sabir)

CNR No.: DLCT01-013816-2022

SC No. 644/2022

FIR No. 208/2022

Under Section 302/307/120B/34 IPC & 25/27 Arms Act

PS I.P. Estate

23.07.2026

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Abhinav Sharma, Ld. Counsel for the applicant,
namely, Sabir.

ORDER

1. The present application has been moved on behalf of applicant, namely, Sabir ('*applicant/ accused*' for short), in terms of the provisions 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 11.07.2025.

2. Learned Counsel for the applicant vehemently contended that the applicant is innocent and has been falsely implicated in the present case by the police officials of concerned Police Station. In this regard, Ld. Counsel further submitted that the applicant has nothing to do with the alleged offence, with which he has been charged with. Further, Ld. Counsel contended that no specific role has been attributed to the present applicant and no case is made out against the applicant. Ld. Counsel further submitted that the applicant has been languishing in judicial custody since 05.03.2024, without there being any fault on his part. Further, Ld. Counsel submitted that no incriminating evidence has come on record in support of the prosecution theory of involvement of the applicant. Consequently, it was submitted that the fate of criminal antecedents have been pronounced in favour of the applicant. Ld. Counsel further submitted that the

co-accused persons, namely, Salman and Samreen, have been granted bail by the Hon'ble High Court of Delhi *vide* order dated 26.05.2025 and 20.09.2024, respectively. Ld. Counsel further submitted that the eye witnesses have not supported the case of prosecution. Further, as per Ld. Counsel, all the material/public witnesses have been examined, in the instant case and as such 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 and there are no chances of his absconding/ fleeing from justice, if released on 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. Conclusively, Ld. counsel for the applicant prayed that the present application be allowed, and he may be released on bail. In support of the said contentions, reliance was placed upon the decisions in; ***Union of India v. K.A. Najeeb, AIR 2021 SC 712.***

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. Ld. Addl. PP for the State, in this regard, further submitted that that applicant played an active role in the commission of a grave offence as well as the manner in which the offence was committed is also quite gruesome. Ld. Addl. PP for the State further submitted that applicant is a habitual offender and previously involved in many other cases of similar nature. Ld. Addl. PP for the State further submitted that the matter is at the stage of evidence and statement of public witnesses is being recorded before the Court. 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. Ld. Addl. PP for the State further submitted that there is a reasonable likelihood of flight risk of the applicant, making the present application liable to be rejected to the outset. Even otherwise, as per Ld. Addl. PP for the State there has been no change of circumstance since the dismissal of applicant's last bail application on 11.07.2025.

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

5. Before cogitating deeply on the arguments addressed before this Court, it is apposite to outrightly note the determination on bail, involves, establishment of an equipoise between the rights of an individual, linked with his personal liberty as well as the interest of society at large. Congruently, while exercising such discretion, courts have to be mindful that such an exercise must not only ensure fair trial, rather, guarantees the presence of an accused during trial. Ergo, it is quite understandable that several factors are required to be considered¹, i.e., *“nature and gravity of the circumstances in which the offence is committed; the position and the status of the accused with reference to the victim and the witnesses; the likelihood, of the accused fleeing from justice; of repeating the offence; of jeopardizing his own life being faced with a grim prospect of possible conviction in the case; of tampering with witnesses; the history of the case as well as of its investigation”*, etc., before reaching a conclusion whether or grant or deny bail. Needless to mention that there is trite law that though, there is no prescribed strait jacket formula regarding such relevant factors, however, two paramount considerations are², i.e., likelihood of the accused

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

² *Aftab Abdul Latif v. State of Maharashtra*, 2013 SCC OnLine Bom 1590.
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fleeing from justice and the probability of the accused tampering with prosecution evidence. In fact, these two considerations have determinedly been held to have a direct bearing on a fair trial of the case in a Court of justice, accordingly, necessitating due and proper consideration. Needless to accentuate that is a settled law¹ that in case where there are sufficient reasons to have a reasonable apprehension that the accused might flee from justice or will tamper with prosecution evidence, he can be refused bail, in order to ensure a fair trial of the case.

6. It is equally important to note here that at the stage of granting bail, though the courts are required to give reasons, however, at that stage, a detailed examination of evidence and elaborate documentation of the merits of the case is not required² at such a stage. Correspondingly, the superior courts have unswervingly asserted that 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 trial³. In fact, the superior courts have resolutely deprecated⁴ the practice of conducting a mini trial or of ordering a roving enquiry at the stage of bail. Apposite to further note that while considering an entreaty for bail, court(s) cannot be oblivious to the impact of grant thereof on the witnesses or the complainant. In fact, in this regard the superior courts⁵ 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 courts⁶ have also avowed that the impact of an offence on the society,

¹ *Anil Mahajan v. Commissioner of Customs*, 84 (2000) DLT 854.

² *Jagjeet Singh v. Ashish Mishra*, (2022) 9 SCC 321

³ *Satish Jaggi v. State of Chhattisgarh*, (2007) 11 SCC 195

⁴ *Sharjeel Imam v. State (NCT of Delhi)*, 2025 SCC OnLine Del 5756.

⁵ *Sudha Singh v. State of U.P.*, (2021) 4 SCC 781

⁶ *Neeru Yadav v. State of U.P.*, (2016) 15 SCC 422.

equally needs consideration while determining on an entreaty for bail. Needless to further overemphasize that there is also no dearth of precedents which proclaim that defective investigation or infirmity in investigation¹.

7. 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 record² 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 circumstances³ 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 courts⁴ that mere filing of chargesheet would not amount to material change in circumstances for the purpose of bail.

8. Therefore, wary of the principles hereinunder noted, this Court outrightly 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 including the testimony of the witnesses, it is observed that the allegations

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

² *Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528

³ *Anil Kumar Bansal v. State*, 2011 SCC OnLine Del 2647

⁴ *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
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against the applicant are quite serious and the applicant's complicity and active role in the commission of offence *prima facie* stands established, in so far as the applicant, while acting in furtherance of a conspiracy with co-accused persons is stated to have committed the murder of Farman, wherein the applicant is stated to have blocked the road along with other accused persons at the time of such commission. The applicant is also stated to have been in continuous touch with the co-accused persons in close proximity to the incident. Notably, the applicant was also found avoiding his apprehension and was declared as proclaimed offender *vide* order dated 14.12.2022, passed by Ld. MM-03 (Central), Tis Hazari Court. Needless to mention that all the other contentions of Ld. Counsel for the applicant have already been dealt with at the time of deciding the applicant's earlier bail application and there has been no change of circumstances ever since.

9. Consequently, in conspectus of the above and further keeping in view the nature and gravity of the offence, rigorousness¹ of the punishment which may be awarded upon conviction; the fact of applicant is involved in a crime of heinous nature; the role and complicity of the applicant; manner of commission of offence; reasonable apprehension regarding the applicant's fleeing from justice; as well as considering that the applicant is asserted to be a habitual offender and involved in several cases of similar serious turpitude and 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 observe that though, this Court holds highest regard for the decision(s) relied upon by the Ld. Counsel for the applicant, however, none of the said decision(s) would come to the aid of

¹ *Kuldeep v. State (NCT of Delhi)*, 2021 SCC OnLine Del 4218 and *Rahul Kumar v. State (UT of J&K)*, 2023 SCC OnLine J&K 323
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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.

10. Accordingly, the present application under Section 483 of BNSS for regular bail *qua* the applicant Sabir 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, Sabir. 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
23.07.2026