

State Vs. Salman @ Chuddi
CNR No. DLCT01-018352-2024
SC No. 771/2024
FIR No. 452/2024
Under Section: 392/397/120B/34 IPC
PS: Karol Bagh

24.12.2024

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Asha Ram Sharma, Ld. Counsel for the
applicant, namely, Salman @ Chuddi.

ORDER

1. The present application has been moved on behalf of applicant, namely, Salman @ Chuddi (*'applicant/ accused'* for short), in terms of the provisions under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*)/Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*), seeking regular bail.

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 was lifted by the police official from his house on 08.06.2024 and was implicated in this case. Ld. Counsel further submitted that the applicant has nothing to do with the alleged offence, with which he has been charged with. Ld. Counsel further contended that the applicant has been languishing in judicial custody since 11.06.2024, without there being any fault on his part. Further, as per Ld. Counsel, nothing has been 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, no public witness had been joined during the alleged recovery proceedings which creates doubts in the prosecution story and even no notice

was given by the IO to the public persons who refused to join the proceedings. Ld. Counsel further submitted that the complainant has failed to identify the applicant during his TIP proceedings. Further, as per the Ld. Counsel, the IO has failed to place on record, any bill of the alleged recovered golden chain, besides the TIP of the said alleged golden chain was also not got conducted to ascertain whether the said chain belongs to the complainant or not and accordingly, the recovery and seizure of the said alleged chain seems to be doubtful. Ld. Counsel further submitted that there are material contradictions in the statement of the complainant recorded under Section 161 Cr.P.C. and his supplementary statement. Ld. Counsel further submitted that investigation has already concluded and charge-sheet has already been filed 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. Further, as per Ld. Counsel, the applicant is a young boy and his continued incarceration would adversely effect his future. 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. Further, as per Ld. Addl. PP for the State, an automatic pistol with two live cartridges loaded in pistol, besides the shoes seen in the CCTV footage at the crime scene were 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. Ld. Addl. PP for the State further submitted that the applicant is involved in multiple cases and that there is a reasonable likelihood of flight risk of the applicant, making the present application liable to be rejected to the outset.

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. The quandary that surrounds the determination of bail is replete with multitudinous factors, involving establishment of a balanced approach between the conflicting interests. While on one hand, such an adjudgment involves safeguarding the right to liberty of an individual, while preventing harassment, humiliation, and unjustified detention of the accused, on the other hand, it entails ensuring free, fair and full investigation. Undeniably, liberty of an individual is valuable right, however, it is trite law¹ that such a protection cannot be absolute and there may be instances where the collective interest of the community may predominate the right² of personal liberty of an individual. Ergo, it is quite understandable that while exercising the discretion to grant or refuse bail the Court will have to take into account various considerations³, such as; *“the nature and seriousness of the offence; the circumstances in which the offence was committed; the character of the evidence; the circumstances which are peculiar to the accused; a reasonable apprehension of witnesses being influenced and evidence being tampered with; the larger interest of the public or the State; the*

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

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

3 *Anil Mahajan v. Commissioner of Customs*, 2000 SCC OnLine Del 119; and *Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496

position and status of the accused with reference to the victim and the witness; the likelihood of the accused fleeing from justice; the likelihood of the accused repeating the offence; the history of the case as well as the stage of investigation, etc...”

Further, strikingly, it is a settled law¹ 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 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 required² 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 trial³. 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. In fact, in this regard the superior courts⁴ 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 courts⁵ have also avowed that the impact of an offence on the society, equally needs consideration while determining on an entreaty for bail.

6. 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

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

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

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 statements of the 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 co-accused persons is asserted to have robbed the complainant of his golden chain. Further, from the possession of the applicant, an automatic pistol with two live cartridges loaded in pistol have been recovered. Further, as per the IO, scrutiny/case recognition of the applicant is still pending at FSL, Rohini, Delhi.

7. 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; 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 rigorousness¹ of the punishment involved and the applicant's involvement in multiple cases of serious turpitude; the proceedings in the instant case are still at a nascent stage as charges are yet to be framed against the accused persons and trial is yet to begin and public persons are adduced to be cited as prosecution witnesses; 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.

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
FIR No. 452/2024

8. Accordingly, the present application under Section 483 of BNSS for regular bail *qua* the applicant Salman @ Chuddi 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 the applicant herein and would have no bearing on the factual matrix of the present case.

10. A copy of the present order be given ***dasti*** to the Ld. Counsel for the applicant, namely, Salman @ Chuddi. 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
24.12.2024