

Bail Matter (IA SC 751-2021)
State Vs. Petu Sheikh
FIR No. 13/2021
U/s 395/397/412 IPC &
25/27/54/59 Arms Act
PS Maurya Enclave

03.03.2025

Present: Ms. Yogita Kaushik, Id. substitute Addl. PP for the State.
Sh. Lakshay Yadav, Id. Counsel for applicant/accused.

1. This is 8th application under Section 483 BNSS for grant of bail, moved on behalf of applicant/accused Petu Sheikh.

2. Arguments heard.

3. Brief facts of the present case are that present FIR is registered on the statement of complainant Vinay Shukla who was a security guard at HD-7, Reliance Jewellery Store. He alleged that on 14.01.2021 when he was on his duty at Reliance Jewellery store, at about 04:00 am around 6-7 persons, armed with desi katta, knife and iron rod, came in grey colour car and threatened the complainant. Thereafter, they broke the shutter and glass door of jewellery store with the help of iron rod and barged into the showroom and looted approximately 3.5 kg gold jewellery and ran away from the spot.

4. It is submitted by Id. Counsel for applicant/accused that applicant has been falsely implicated in the present case. Applicant/accused was implicated in the present case only on the disclosure of co-accused Shankar and prosecution has not put anything on record to establish that co-accused Shankar was in association or contact with applicant. The

arrest of applicant/accused is in grave violation of Article 22 of The Constitution of India as he was not informed about the reasons and grounds of arrest. Applicant/accused is in custody for more than 04 years and not a single witness has been examined out of 58 witnesses. Co-accused persons have been granted bail by this Court.

5. It is further submitted that the recovery of knife allegedly shown to be recovered at the instance of applicant/accused from the area of PS Bawana is in violation of provision of Cr.P.C. as the police officials of Maurya Enclave never preferred to inform the local police station about the search and seizure of knife. During investigation, applicant/accused was shown to the complainant. Involvement of applicant/accused in other criminal cases cannot be a sole ground for rejection of bail. Trial will take a considerable time.

6. Ld. Counsel has also placed reliance on following judgments:

(a) Sanjay Chandra Vs. CBI (2012) 1 SCC 49;

(b) Badri Prasad Vs. State AIR 1953 Csl 28, 56;

(c) State of Kerala Vs. Raneef, AIR 2011 SC 340;

(d) Satender Kumar Antil Vs. CBI, SLP (CRL) 5191 of 2021

(e) Goldy Sehgal Vs. State of NCT of Delhi, Bail Application No. 1447/2024;

7. Ld. Substitute Addl. PP has opposed the bail application. It is submitted that applicant refused to participate in TIP but he was correctly identified by complainant during PC remand of applicant. 1 kg 800 grams of gold was recovered from the applicant/accused. There is around 10 previous involvements of applicant/accused in similar offences.

Applicant/accused was apprehended from train in Hazari Bagh by RPF when applicant, after committing the offence, was going to West Bengal and therefore, there is grave apprehension that applicant/accused may jump the bail, if released on bail. It is further submitted that complainant is yet to be examined in this case.

8. Allegations against applicant/accused are that he alongwith co-accused Shankar broke the main shutter of the showroom with the help of iron rod, which was recorded in CCTV footage. Car used in the commission of crime was also found to be stolen by applicant/accused alongwith his accomplice. One buttondar knife alongwith 1 kg 800 grams of gold jewellery was recovered from applicant/accused.

9. In the previous bail order dated 12.07.2024 ground that accused was not communicated about the grounds of arrest has already been discussed. Last bail application of applicant/accused was dismissed on the grounds that complainant is yet to be examined and co-accused who are on bail in this case are charged with Section 412 IPC only.

10. In order dated 12.07.2024 which was 7th bail application all the contentions were discussed in detail. However, it is stated by ld. counsel that the custody of applicant cannot be perpetuated when the trial is not proceeding further. Ld. Counsel has pointed out that from 12.07.2024 till date not a single witness has been examined and there is no fault of applicant/accused. It is submitted that most of the time after 12.07.2024 was consumed as some of the accused failed to appear in the Court and the Court proceeded for declaration of non appearing accused as proclaimed offender. Ld. Counsel also pointed out that even after

declaring the main accused as PO, on last date of hearing also, no witness was examined because two of the accused failed to appear and it was found that one of them is arrested in some other case. It is, therefore, pleaded by ld. counsel that there is no likelihood that this trial will go in speedy manner because there are 16 accused and out of those 16 accused 12 are on bail.

11. Per contra ld. Addl. PP submits that even though the trial appears to be delayed for one or other reason beyond the control of applicant as well as the prosecution, mere delay itself is not sufficient to release the applicant on bail when applicant was caught red handed fleeing with the robbed articles. It is further submitted that the applicant has been identified by the witness as one of the dacoit who was armed with rod and this Court has, successively dismissed the bail applications of the applicant. Ld. Addl. PP for State also flagged the point that after dismissal of bail application on 12.07.2024, the applicant had approached Hon'ble Court of Delhi and subsequently withdrawn the bail application before filing the present one. As such the applicant is not entitled to be released on bail.

12. Ld. Counsel clarified that the applicant had to withdraw the application because the roster got changed and a very long date was being given.

13. Even if the clarification of ld. counsel for applicant is accepted, it bears on the probity of this Court to hear the bail application after getting it dismissed from Hon'ble High Court of Delhi.

14. Ld. Counsel has not filed copy of order dated 26.09.2024 when the bail application of applicant was listed before Hon'ble High Court of Delhi. It is, therefore, not sure if any leave was taken from the Hon'ble High Court of Delhi to file the fresh application/re-agitate the grounds before this Court. It was already referred in the order dated 12.07.2024 that in State of MP Vs. Kajad (2001) 7 SCC 673, Hon'ble Supreme Court laid that:

“8. it is true that successive bail application are permissible under the changed circumstances. But without the change in circumstances the second bail application would be deemed to be seeking review of earlier judgment which is not permissible under criminal law as has been held by this Court in Hari Singh Mann Vs. Harbhajan Singh Bajwa (2001) 1 SCC 169; 2001 SCC CRI 113 and various other judgments.”

15. In view of the discussion and for the observation already made in order dated 12.07.2024, the application is dismissed.

16. It is also prayed by ld. Counsel that the Court may also consider the medical condition of family of accused and may consider the accused to be released on interim bail. This question of releasing the applicant/accused on interim bail is, therefore, left open subject to the grounds available which will be verified first, as and when agitated.

17. In view of the recommendations of Rules Committee under Section 523 of BNSS, 2023 with respect to the practice directions issued by Hon'be Supreme Court of India in Writ Petition no. W.P.(C) 1082/2022 Suhash Chakma Vs. Union of India & Ors., the applicant can avail the free legal aid facility from District Legal Services Authority (North-West) at Room No. 405, 4th Floor, District Court Rohini, Delhi-110085. Applicant may contact the authority on phone number

011-27555536 or through mail at e-mail ID northwest-dlsa@nic.in.

18. Copy dasti. Copy of this order be also sent to Jail Superintendent to inform the applicant/accused of his rights.

**VIKRAM
ASJ-II/SPECIAL JUDGE NDPS/
NORTH-WEST/ROHINI COURTS/
DELHI/03.03.2025**