

IN THE COURT OF MS. SURABHI SHARMA VATS, ASJ-04
(SHAHDARA), KARKARDOOMA COURTS, DELHI

SC No. 314/2022, IA No. 14/2024

FIR No.: 471/2021

U/s 186/353/333/474/34 IPC

PS Vivek Vihar

State Vs. Faisal & Ors.

10.01.2025

File is taken up today on an application moved under Section 483 of BNSS seeking regular bail moved on behalf of applicant/accused Faisal.

Present : Sh. S.K. Dubey, Ld. Addl. PP for the State.

Sh. Divakar, Ld. Counsel for applicant/accused.

IO/SI Parvesh Kumar is present in person.

1. It is submitted by Ld. Counsel for the applicant/ accused that applicant/accused has been falsely implicated in the present case; that applicant/accused is in JC since 09.09.2021; that applicant/accused is not previously convict in any other case; that applicant/accused is no more required for the purpose of further investigation and the investigation in the present case is complete and charge-sheet has already been filed; that no fruitful purpose will be served by keeping the applicant/accused in JC.

2. Per-contra, Ld. Addl. PP for the State has argued that allegations levelled against the accused/ applicant are serious in nature since the accused persons including applicant/ accused had obstructed the police party who was checking the stolen vehicles and assaulted the members of the said police party; that accused/applicant voluntarily caused greivous injury upon the police personal who was discharging public duty; that applicant/accused is previously involved in many other

criminal cases and if admitted on bail, can again indulge in similar other criminal activities.

3. It is further submitted by Ld. Counsel for applicant/accused that accused/ applicant Faisal has been charged for the offences punishable under Section 186/353/ 333/474/34 IPC and the maximum punishment amongst the charged offences is for the offence under Section 333 IPC which is up to 10 years. The applicant/accused is in imprisonment since 09.09.2021 and has undergone judicial custody for three years and four months which is one-third of the maximum punishment for the alleged charged offences, therefore, benefit of Section 479 BNSS may be accorded to him and the applicant/accused be released from JC.

4. IO has submitted that fake and forged Aadhar Cards were recovered from the possession of the accused Faisal, however, he had not used the said Aadhar Cards, he was only in possession of those Aadhar Cards so that he could use them for his benefit in future; that the applicant/accused is not previously convicted in any other case though he is accused in other criminal cases as well.

5. Submissions heard. Record perused.

6. Perusal of the record reveals that accused/applicant Faisal has been charged for the offences punishable under Section 186/353/332/ 333/474/34 IPC.

Today, it is submitted by IO that fake and forged Aadhar Cards were recovered from the possession of the accused Faisal, however, accused/applicant had not used the said Aadhar Cards, he was

only in possession of those Aadhar Cards. This offence as alleged falls under the purview of Part-I of Section 474 IPC, which entails maximum imprisonment up to seven years. The maximum punishment amongst the charged offences is for the offence under Section 333 IPC which is upto 10 years.

7. At this stage, this Court deems it apt to quote section 479 BNSS for reference:-

“Section 479. Maximum period for which undertrial prisoner can be detained.

(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law:

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of his bond:

Provided also that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.-In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

(2) Notwithstanding anything in sub-section (1), and subject to the third proviso thereof, where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court.

(3) The Superintendent of jail, where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub-section (1) for the release of such person on bail.”

As per the first proviso of the aforesaid Section, a person who has during the investigation, inquiry or trial of an offence under any law has undergone detention for a period extending up to one-third of the maximum period of imprisonment specified for such offence under that law provided that such person is a first-time offender, shall be released on bond by the Court.

8. Considering the fact that the applicant/accused has undergone imprisonment of three years and four months which is one-third of the maximum imprisonment of ten years specified for the gravest offence amongst the charges/offences as punishable under Section 333 IPC and since, it is stated that applicant/ accused Faisal has not been previously convicted in any other case, the applicant/accused Faisal is entitled for benefit under Section 479 of BNSS. Accordingly, the applicant/accused is admitted to bail on his furnishing bail bond in the sum of Rs. 20,000/- with one surety of the like amount, subject to the conditions as mentioned hereinbelow:

- i) That the accused/ applicant shall convey any change in his address immediately to the I.O. and the Learned Concerned Court.

- ii) That accused/ applicant shall appear before the Trial Court on dates of hearing;
- iii) That the accused/ applicant shall not indulge in any kind of activities as alleged against him in the present case;
- iv) That the accused/ applicant shall not tamper with the evidence in any manner;
- v) That the accused/ applicant shall not leave the Country without prior permission of the Court.
- vi) That the accused/ applicant shall not directly or indirectly make any inducement, threat or promise to any person who is acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

9. *Nothing expressed hereinabove, shall tantamount to any opinion on the merits of this case.*

10. Bail application stands disposed of.

11. File be put up for the purpose fixed on the date already fixed i.e. **29.03.2025**.

(Surabhi Sharma Vats)
ASJ-04/Shahdara, KKD Court, Delhi
10.01.2025