



2025:DHC:11058



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: December 8, 2025

+ **BAIL APPLN. 4101/2025 & CRL.M.A. 31893/2025,**
CRL.M.A. 31894/2025

RAHUL GUPTA @ GANJA

.....Applicant

Through: Mr. Lewish Edward, Mr.
Vignesh P. and Mr. Karan
Tomar, Advocates.

versus

STATE OF NCT DELHI

.....Respondent

Through: Mr. Ritesh Kumar Bahri,
APP for the State with SI
PS Patparganj Industrial
Area.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present application is filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in FIR No. 1297/2021 dated 15.12.2021, registered at E-Police Station Patparganj Industrial Area, East District for the offences under Section 379 of the Indian Penal Code, 1860 ('IPC').

2. Succinctly stated, E-FIR was registered on a complaint filed by the complainant Nitin Bhatia on 15.12.2021, alleging robbery by four persons. It was alleged that on 10.12.2021, the complainant was offered a lift by the accused persons. It is



alleged that a few minutes after the complainant sat in the car, three of the accused persons, on gun point, snatched the phone and ATM cards of the complainant. It is alleged that they also withdrew an amount of ₹50,000/- from the three different ATM cards of the complainant.

3. It is alleged that when the Applicant/Rahul and co-accused Arun, were arrested in relation to FIR No. 507/2021, the Applicant was found to be driving the black Swift bearing No. UP14BM4454 allegedly used in the commission of the offence in the present FIR, while co-accused Arun was seated in the car.

4. It is alleged that upon search, Two ATM cards in the name of one Sameer and one Mohit were recovered from the Applicant, while Two ATM cards in the name of one Ravinder Kumar were recovered from the co-accused Arun Kumar.

5. It is alleged that upon further investigation, another co-accused Manish Gahlot was arrested and one Paytm Card and one ATM card in the name of the one Bhupender were recovered from his possession.

6. On 01.01.2022, all the four accused persons including the applicant herein were arrested in the present FIR. The chargesheet had been filed under Sections 392/397/34 of the IPC.

7. The learned counsel for the Applicant submits that the applicant herein has been falsely implicated.

8. He submits that during the TIP proceedings, the complainant identified the main accused- Manish Gahlot but failed to identify the applicant herein.

9. He further submits that even though the complainant stated



that he was given lift by four people in a car, no car number was mentioned in the FIR.

10. He further submits that the prosecution alleged that the applicant while being interrogated in another case, has admitted that he had committed offence in the present case. However, the ATM cards of the complainant have not been recovered from the Applicant.

11. He further submits that as per the case of the prosecution, a plastic lighter in the shape of a pistol was used for commission of offence and therefore offence under Section 379 of the IPC is not attracted.

12. He also submits that he has been in custody for almost 04 years and out of 13 witnesses, only 4 witnesses have been examined and thus, there is no likelihood of the trial getting concluded in the near future.

13. *Per contra*, the learned Additional Public Prosecutor for the State has vehemently opposed the grant of any relief to the Applicant herein. He submits that the allegations against the accused are serious in nature and the applicant is also involved in two other robbery cases of similar nature.

14. He further submits that the Swift Car and a silver coloured plastic pistol shaped lighter has been recovered from the Applicant herein which was used for committing the offence and the CCTV footage also shows the Applicant along with the co-accused Arun, withdrawing money from the Bank on the alleged date of the incident.

15. He further submits that the present case is at the stage of



prosecution evidence and there is stout apprehension that if released on bail, the applicant may try to influence the witnesses or tamper with the evidence.

16. Submissions heard and the material placed on record perused.

17. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that is to be considered.

18. While it is true that the applicant is embroiled in two other criminal cases, however, it is settled law that pendency of several criminal cases against an accused person, by itself alone, cannot be the basis for refusal of prayer for bail and a holistic view of the facts has to be taken by the Court while considering grant of bail [***Prabhakar Tewari v. State of U.P. : (2020) 11 SCC 648***]. It is also pointed out that the Applicant has already been enlarged on bail in one of the cases.

19. As per record, the role ascribed to the Applicant is that on the date of incident, he was driving the car, while the other three co-accused persons inflicted injuries upon the complainant and by using pistol-like weapons, snatched the ATM Cards and



phone of the Complainant and threatened him to reveal the PIN Code. Then the applicant and co-accused Arun, went to the SBI Bank and withdrew about Rs. 50,000/-, by using his three ATM Cards (Rs. 20,000/- had been withdrawn from SBI card, Rs. 20,000/- from PNB card, and Rs. 10,000/- from RBL Bank card).

20. Pertinently, as per the own case of the prosecution, no recoveries have been made from the applicant herein apart from the alleged swift Car, the number of which is not mentioned in the FIR, which was filed on 15.12.2021 i.e. 5 days after the alleged incident.

21. It is further not disputed that the Applicant is also not a registered owner of the Swift Car and the owner is one Ms. Chanchal Pal, who has alleged that the applicant used to use her car.

22. It is also not disputed that the ATM cards recovered from the Applicant, are not of the Complainant. Further, the alleged “*pistol-like weapon*” was merely a plastic gun-shaped lighter, which was recovered from the Applicant.

23. Undisputedly, only co-accused Manish Gahlot was identified during the Test Identification Parade proceedings and the complainant could not identify the applicant as well as co-accused Vipul during the proceedings.

24. It is also admitted case of the prosecution that even the CCTV footage of the SBI Bank of the date of incident, merely shows two boys, one wearing a cap and the other wearing a mask, wherein the face of the accused persons is not visible.

25. While the veracity of allegations levelled by the



prosecution and the defence of the accused are a subject matter of trial, *prima facie* this Court is of the opinion that sufficient grounds are made out to release the applicant on Bail.

26. It is also pertinent to mention that the co-accused/Manish Gahlot was released on regular *vide* order dated 10.04.2024 passed by this Court in Bail Appln. No. 3738/2023. The role attributed to the Applicant cannot be said to be graver than that of the co-accused, thereby entitling him for bail on the ground of parity.

27. Admittedly, the Applicant has been in incarceration since 30.12.2021 i.e. for about four years and the trial is still not likely to conclude in near future. The applicant cannot be made to spend the entire period of trial in custody specially when the trial is likely to take considerable time as out of 13 witnesses only 04 have been examined.

28. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeer***: AIR 2021 SC 712 held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

29. A long period of incarceration, thus, is also a factor which has to be kept in mind at the time of deciding the question of grant or refusal of bail.

30. The investigation in the present case already stands concluded with the filing of chargesheet followed by framing of charges and it is not denied that the victim has already been examined. In view of the same, this Court is of the opinion that



no purpose would be served by keeping the applicant in further custody.

31. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

32. In view of the above, without commenting further on the merits of the case, I am of the opinion that the applicant has made out a *prima facie* case for bail.

33. Considering the aforesaid, the applicant is directed to be released on bail in the present FIR (if not in custody in any other case), on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, out of which, one of the sureties necessarily has to be the family member of the applicant, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall appear before the learned Trial Court as and when directed;
- c. The applicant shall not leave the boundaries of the country without the permission of the learned Trial



2025:DHC:11058



Court;

d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;

e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

34. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

35. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

36. The bail application is allowed in the aforementioned terms.

37. Pending applications also stand disposed of.

AMIT MAHAJAN, J

DECEMBER 8, 2025

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