



2025:DHC:8173



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

% *Reserved on: 27th August, 2025*
Pronounced on: 16th September, 2025

+ **BAIL APPLN. 2665/2025**

SURESH

S/o Sh. Chander Shekhar
R/o Village Ganga Ram,
Mahadev, PS. Shohrat Garh,
Sidharth Nagar, U.P.

.....Petitioner

Through: Mr. Chetan Bhardwaj, Ms. Priyal
Bhardwaj, Mr. Chirag Kapoor and
Ms. Satakshi Gupta, Advocates

versus

STATE NCT OF DELHI

Through SHO, PS. Darya Ganj

.....Respondent

Through: Mr. Utkarsh, APP for the State

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Second Bail Application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 [*corresponding to Section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C.)*] has been filed on behalf of the **Applicant/Suresh** for grant of **Regular Bail** in FIR No. 213/2020 under Sections 307 of the Indian Penal Code, 1860 (*hereinafter referred to as*



“IPC”) and Section 25/27 of the Arms Act, 1959, registered at Police Station Darya Ganj.

2. It is submitted that the Petitioner is a 61-years old man and has undergone more than 4 years of imprisonment.

3. The **case of the Prosecution** is that on 03.11.2020 at about 11:15 PM, Ct. Rahul (*the Complainant*) was standing at the gate of Darya Ganj Police Station and he heard some noises. He went near Tikona Park at Delhi Gate and saw that the Applicant/Accused *Suresh* was standing with a pistol, threatening and quarrelling with three other people, and was under the influence of alcohol.

4. As the Complainant approached, the Applicant shot at the stomach of one of the three persons and started running away. Ct. Rahul ran after the Applicant. However, the Applicant, being in a drunken state, fell on the road and got injured due to which the pistol fell away from his hand and he was caught by Ct. Rahul.

5. It is alleged that an Aadhaar card was recovered from the pocket of the Applicant, which bore his photograph and identified him as *Suresh S/o Om Prakash, R/o C-60/133, Jhuggi Priya Darshan, Railway Colony, Kutubarod, Sadar Bazar, Delhi-6*. Ct. Rahul informed the Police Station staff and the PCR. The PCR van took the victim, while the ambulance took the Applicant to Lady Hardinge Hospital, where both received medical treatment. As a result, the present FIR was registered.

6. The medical examination of the victim was conducted *vide* MLC No. 3378, wherein in column of brief history it was stated that “*alleged history of gunshot wound by unknown person at unknown address at unknown time*”. The victim was taken for surgery.



7. After the surgery, it was found that victim's name is *Mohd. Naseem @ Lalu S/o Mohd. Aalam R/o A-block, 61 B JJ Colony, Bawana Delhi, Age 35 years*. Thereafter his statement was recorded under Section 161 Cr.P.C.
8. After completion of investigation, the Chargesheet was filed under Section 307 IPC and 25/27 Arms Act on 29.01.2020. The Prosecution has arrayed 21 witnesses in support of their case.
9. It is submitted that the first Bail Application of the Applicant i.e. SC No. 653/2022 was filed before the Ld. Trial Court. However, it was dismissed *vide* Order dated 19.04.2025. The Applicant then approached this Court but the Bail Application No. 1574/2025 was disposed of as withdrawn *vide* Order dated 22.05.2025, with liberty to approach the Ld. Trial Court.
10. The Applicant subsequently, approached the Ld. Trial Court with his ***second Bail Application***, however, the Application was again dismissed as withdrawn *vide* Order dated 29.05.2025.
11. The Applicant moved an Application before the Ld. Trial Court seeking *Interim Bail* in light of his medical condition. However, the same was dismissed on 03.06.2025, as the Applicant had been discharged by the hospital on 17.05.2025. The Ld. Trial Court granted the Applicant liberty to approach again with a fresh regular Bail Application. However, the said Application was also dismissed *vide* Order dated 12.07.2025.
12. *Aggrieved, the Applicant has filed the present Bail application.*
13. The **grounds for seeking regular Bail** are that the Ld. Trial Court has passed a non-speaking Order without dealing with submissions raised. The Chargesheet clearly shows that the Applicant is himself a victim in the incident and has been falsely implicated. The present case is that of the



Police misusing its power to falsely implicate innocent people. The entire investigation raises serious questions about the Prosecution's case.

14. As per the case of the Prosecution, at 11:15 PM, the Complainant *Ct. Rahul* heard some noises and witnessed the entire scene. However, as per the GD No. 0085A, the PCR call was received at 10:59 PM.

15. Furthermore, the PCR took the victim and the ambulance took the Applicant to Lady Hardinge Hospital, which is 5.2 km away from the place of the incident. But the MLC of the victim was recorded at 11:23 PM. Thus, a mere perusal of the timelines clearly shows that it is highly improbable that all the incidents could have occurred within a span of only 9 minutes.

16. It is submitted that there are serious discrepancies related to the MLC of the victim. It records the history as "*gunshot wound by unknown person at unknown address at unknown time*". However, as per the FIR, the location, the time and even the identity of the Applicant was known to the Complainant and other police staff.

17. Furthermore, it is submitted that the MLC states that "*bleeding from left ear (gunshot wound to ear) 1*1 cm wound over left side of abdomen (left hypochondrium). Gunshot injury wound*". However, there was one gunshot fired, but two wounds were noted in the MLC of the victim. Furthermore, there was only one empty cartridge found on the scene of the crime.

18. It is submitted that as per the Prosecution case, two MLCs were recorded of the Applicant. The first MLC bearing No. 3380 was recorded on 03.11.2020 at 11:40 PM and the second MLC without No., was recorded on 04.11.2020 at 3:29 PM. The first MLC is silent on any identification marks of the Applicant. Whereas the second MLC records a *tattoo over right hand*



dorsum “sake image”. Thus, it shows that the two MLCs pertains to 2 different people.

19. It is further submitted that the first MLC records that *the patient was brought in an unconscious state to the emergency, the mode of injury was unknown at an unknown location*. This also corroborates that the person brought to the hospital in the MLC was not connected to the FIR of the present incident.

20. It is submitted that as per the FIR, the Applicant was in a drunken state. However, the MLC is completely silent on this aspect.

21. Furthermore, a document titled “ENT Notes” records that “*No relevant history could be elicited as the person was unconscious and no attendant was available.*” This clearly highlights the inherent absurdity and inconsistency in the Prosecution’s version, as it indicates that the Applicant, who is alleged to have committed a heinous offence, was left unattended in the hospital, with no Police present to accompany or monitor him. Such circumstances severely undermines the credibility of the Prosecution’s narrative.

22. It is submitted that allegedly, at Lady Hardinge Hospital, the doctor handed over to the I.O. the Aadhaar card of Suresh S/o Om Prakash, a mobile bill, Rs. 200 in cash (two Rs. 50 and two Rs. 10 notes), and a torn Jail Surrender Slip in the name of Suresh S/o Chander Shekhar, recorded in MLC No. 3380. Thus, the I.O. already had the knowledge regarding the identity of the accused person.

23. It is submitted that the falsity in the Prosecution’s case is also evident from the record itself. While the I.O. allegedly seized two live cartridges from the weapon, and the *Seizure Memo of Pistol and Live Cartridges* also



reflects the recovery of only two cartridges. However, the FSL Report states that three live cartridges were sent for examination. This contradiction casts serious doubt on the credibility.

24. It is submitted that the Applicant has undergone a custody of more than 4 years and 7 months. Even the Charges have not yet been framed. Furthermore, the Applicant is a 61-year-old man and the trial is likely to take a considerable amount of time.

25. Reliance is placed on the case of Kuldip @ Raju vs. State of NCT of Delhi, Bail Application No. 1094/2025, wherein the Petitioner therein was a convict under Section 302IPC and noting the delay in trial, the Petitioner was granted Bail. Similarly, reliance has also placed on the case of Banadik vs. State, 2024: HC:2424, decided on 28.03.2024.

26. Furthermore, in the case of Kalyan Singh Sarkar vs. Rajesh Rajan, 2004SCCOnLine SC315, it was held that though at the stage of granting Bail, a detailed examination of evidence and elaborate documentation of the merit of the case is not to be undertaken, yet there is a need to indicate in such orders, reasons for prima facie concluding why bail has been granted, particularly where the Applicant is charged of having committed a serious offence. Any Order devoid of such reasons would suffer from non-application of mind. It is necessary for the Court to consider the following circumstances while granting Bail, (a) *the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.* (b) *reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.* (c) *prima facie satisfaction of the Court in support of the Charge.*



27. Reliance has also been placed on the case of Mahipal vs. Rajesh Kumar, (2020) 2 SCC 118 wherein the Apex Court observed that the Court is required to examine whether there is a *prima facie* or reasonable ground to believe that the Applicant/Accused had committed the offence and on a balance of the considerations involved, the continued custody of the Applicant/Accused subserves the purpose of the criminal justice system. Where Bail has been granted by a lower court, an appellate court must be slow and ought to be guided by the principles set out for the exercise of the power to set aside Bail.

28. Reliance has also been placed on the case of Satender Kumar Antil vs. CBI & Anr., (2022)10 SCC 51; Sunder Singh Bhati vs. State, 2022 SCC OnLine Del 134; Sanjay Chandra vs. CBI, (2012) 1 SCC 40.

29. Lastly, it is submitted that the Applicant has not been able to take the benefit of parole or furlough from the past 4 years and is unable to meet his family due to incarceration in the false case.

30. *Thus, a prayer is made for grant of regular Bail.*

31. The **Status Report has been filed on behalf of the State**, wherein the investigation has been carried out in the FIR, has been detailed.

32. It is stated that on 03.11.2020, a PCR call vide DD No.85A was received at P.S. Daryaganj and the same was entrusted to SI Mahavir, who along with staff reached at the spot where Ct. Rahul met them and stated that the Injured and Applicant have been taken to LHMC Hospital by PCR and CAT Ambulance respectively. Ct. Rahul handed over a country-made pistol and two live cartridge to SI/IO Mahavir and were taken into possession.

33. The Injured was admitted *vide* MLC No. 3378/2020 and the Applicant was admitted *vide* MLC No. 3380/2020.



34. It has been further stated that during the investigation, it has been found that Applicant Suresh was convicted and sentenced to life imprisonment in case FIR No.0092/2011 under Section 302 IPC at P.S. Darya Ganj. On 28.05.2020, he came out on Parole for 08 weeks from Mandoli Jail due to COVID during which time, he committed the present offence. The Aadhaar Card found from the possession of the Applicant, on verification, was found to be forged and Section 468 IPC has been added.

35. During the investigation, statement of the Victim's friend, Prashant and Chhotey Lal, who were the eyewitnesses present on the spot, was also recorded which supported the version of the injured. Further, the Doctor has opined the injury of the Victim as grievous. Exhibits have been sent to FSL but the Ballistic Report is still awaited.

36. The Chargesheet has been filed before the Court and is pending at the stage of framing of Charges.

37. The **Bail is opposed on the ground** that he is a desperate criminal involved in heinous crimes. He has previous involvement in **a total of 10 FIRs**, including the present one, which are under heinous offences like 307/302 IPC and 25/27/54 Arms Act. Furthermore, he has already been sentenced to life imprisonment in FIR No. 0092/2011 under Section 302 IPC at P.S. Daryaganj. It is submitted that the offence committed is grave in nature and he has no permanent residence in Delhi. He may jump the Bail and may threaten the witnesses.

38. *The Bail Application is, therefore, opposed.*

39. **Submissions heard and record perused.**

40. As per the Prosecution, the Applicant/Suresh in drunken state, was brandishing his pistol and quarrelling with 03 persons and as the



Complainant/Ct. Rahul approached towards him, he fired at the people and one person was hit in his stomach while others ran away. He being in the drunken condition, fell and was apprehended by Ct. Rahul on the spot.

41. The Ld. Counsel on behalf of the Applicant has submitted that he is in Judicial Custody for the last 4.7 years and the Charges are yet to be framed. On a specific query, the Prosecutor clarified that the Charges have not been framed as the Ballistic Report is still awaited. It is indeed unfortunate that despite there being so much of *prima facie* evidence, the Trial Court has still not framed the Charges.

42. However, it cannot be overlooked that the Applicant is a desperate criminal, having 06 convictions against him including one under Section 302 IPC in which he is undergoing life imprisonment. Not only this, he has involvement in 9 other cases of similar nature. Moreover, this offence was committed by him while he was admitted on Parole during the COVID period. The sheer number of cases and the conduct of the Applicant clearly reflects his criminal disposition and propensity. Given this background, he is likely to commit an offence again, if released on Bail.

43. Thus, the argument that the Applicant is a 61-year-old man cannot be accepted as a ground for grant of Bail. His age, in the face of his repeated and serious criminal conduct, cannot be considered a mitigating factor for grant of Bail.

44. *Secondly*, it has been vehemently contended that in the MLC of the Victim/Injured, it has been stated that there was alleged history of gunshot wound by *unknown person at unknown address at unknown time*. He was brought to emergency in an unconscious state. It is pertinent to note that he had been taken to the hospital not by Ct. Rahul who had apprehended the



Accused, but in the PCR and it is quite obvious that his name, address and the place of incident may not have been known to ASI Kanchhi, who got him admitted in the hospital. It cannot be overlooked that this MLC was prepared at the initial stage and the endeavour was to take the injured immediately to the hospital for providing the treatment rather than ascertaining his credentials. These facts do not enure to the benefit of the Accused.

45. *Thirdly*, it was contended that it has been mentioned in the Complaint that there was one gunshot injury in the abdomen, but according to the MLC, it was also noted that he was bleeding from the left ear with suspected gunshot wound to the ear in addition to the gunshot injury on the side of the abdomen. It has been argued that while in the Complaint there is only one gunshot injury mentioned, but the MLC shows two gunshot injuries, which again creates a doubt about the person whose MLC has been prepared being the same Victim who had been injured by the Accused.

46. This argument also does not hold any water because Ct. Rahul/Complainant, was a witness to the incident but it is quite evident from the nature of injuries that he may not have noticed the second gunshot being fired at the Victim, as has been noted in the MLC. At this stage, while considering the grounds of Bail, it cannot be said that the averments made in the Complaint are not corroborated by the MLC; it is rather an aspect to be explained during the trial. Furthermore, the MLC aggravates the offence further by showing that there were two bullets fired at the Victim and not one, as has been mentioned in the Complaint.

47. *Fourthly*, it was being contended that there were two MLCs of the Accused; in *first MLC dated 03.11.2020 at 11:40 PM*, prepared at Lady



Hardinge Medical College wherein the name of the Accused is shown as *Suresh S/o Om Prakash* while subsequently, the name of the father has been scratched and indicated as *Chandra Shekhar*. In the *second MLC*, which was prepared on 04.11.2020 at 3:29 PM i.e. on the next day, the name of the Accused is written as *Suresh @ Muchhad S/o Chandra Shekhar*.

48. It is asserted that the change in the father's name creates a doubt as to whether the Accused was indeed the assailant. However, there is no real discrepancy in this regard. It has been explained that the first MLC recorded the name and father's name based on the Aadhaar Card recovered from the Accused's pocket, which was later found to be forged. Once the correct identity of the Accused was established, the second MLC which was prepared the following day, i.e., 04.11.2020, reflected the correct name of the Accused and his father's name. *In these circumstances, it cannot be said that there is any inconsistency between the two MLCs that would warrant giving the benefit of doubt to the Accused.*

49. Taking all of the above into account, the nature of the allegations, the stage of trial and the evidence stated in the Charge-sheet, this Court is not persuaded to grant Bail to the Applicant at this juncture. Though the Applicant is in Judicial Custody 04.11.2020, but it cannot be overlooked that he is a desperate criminal and there is every likelihood of his committing the offence, if released on Bail. However, it is expected from the trial Court that it shall comprehend that such unwarranted delay even in framing of Charge, is not explicable and an endeavour shall be made to conclude the trial within one year.



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50. Therefore, the Bail Application is dismissed. Pending Applications(s), if any, are accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 16, 2025
N/R