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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 30th January, 2025*

+ BAIL APPLN. 394/2025 & CrI.M.A. 2823/2025

VICKY @ VICKY TIWARIPetitioner

Through: Mr. Nishan Singh, Advocate

Versus

STATE OF NCT OF DELHIRespondent

Through: Ms. Meenakshi Dahiya, Additional
Public Prosecutor for Respondent-
State**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Bail Application under Section 483 of *Bhartiya Nagrik Suraksha Sanhita, 2023*/ Section 439 Code of Criminal Procedure has been filed by the Applicant seeking **Bail in FIR No. 121/2024**, under Sections **307/323/34 IPC**, registered at Police Station Sarai Rohilla, Delhi.

2. *It is submitted that the Applicant* is in judicial custody since 28.01.2024 and co-accused Sunil @ Ganja has already been granted bail by this Court on 09.12.2024. While granting him bail, it was considered that Sunil @ Ganja was in judicial custody for last 10 months and there was no previous involvement. Moreover, trial was likely to take some time and it was not prudent to keep him behind bars for an inordinate long period.



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Consequently, bail was granted to co-accused Sunil @ Ganja.

3. The Bail Application preferred by the Applicant was dismissed by the learned Additional Session Judge on 23.12.2024. It is submitted that the Applicant was previously falsely implicated in case FIR No. 678/2021, under Section 302/34, registered at Police Station Sarai Rohilla, Delhi, wherein he has been acquitted *vide* order dated 04.06.2022 by the learned Session Court.

4. It is submitted that the prosecution story is totally false and unbelievable. It is claimed that the Applicant along with C-accused Sunil @ Ganja assaulted the injured persons and caused injury with knife and the Applicant and other injured were given several blows with knife on the head and face. The MLC of the Applicant and other injured shows that injuries sustained were simple and it does not reveal that injuries were caused by any sharp weapon. Neither the blood stained clothes of any of the injured nor the sharp weapon or the *danda*, has been recovered by the police.

5. Furthermore, the two injured, *Ravi Khokhar and Ajay*, as per the MLC had received simple injuries caused by blunt weapon and were discharged on the same day. The facts of the present case do not fall under Section 307 IPC but under Section 323 IPC. Also, both the injured persons were heavily drunk at the time of the incident, as mentioned in their MLC.

6. The prosecution has cited 18 witnesses and for more than 08 months, only one single witness i.e. the Duty Officer has been examined and the matter is now listed on 19.02.2025 for prosecution evidence. The trial is not likely to conclude in near future and keeping the Applicant behind bar is in



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violation of his right of speedy trial under Article 21 of the Constitution of India.

7. Reliance is placed upon decision of the Apex Court in Javed Gulam Nabi Sheikh Vs. State of Maharashtra, arising out of SLP (Crl) No. 3809/2024 and a decision of High Court of Punjab and Haryana in Naib Singh Vs. State of Punjab and Haryana 2007 (1) CC Cases (HC) 72.

8. It is further asserted that the Applicant is aged 22 years, belongs to a poor family and he is one of the financial supporter of the parents of the family. He undertakes to remain present in the Trial Court on each and every date of hearing and is willing to abide by any terms and conditions that may be imposed by this Court. Hence, prayer is made for grant of regular bail.

9. ***Learned Additional Public Prosecutor for Respondent-State*** on advance Notice, has appeared and has argued that the Applicant was involved in a previous case under Section 302 IPC. Though he stands acquitted, he has criminal propensity and in case he is admitted to bail, he is likely to commit similar offence again. There are serious allegations of attempt to murder by inflicting knife injuries and considering the gravity of offence, the bail be not granted to the Applicant. Furthermore, Charge in the present case has already been framed and the prosecution evidence is in the process of being recorded. There is no ground made for grant of bail, which may be rejected.

10. **Submissions heard and record perused.**

11. The case of the prosecution is that on 26.01.2024 at around 08:30 PM, the Complainant along with his friend Ajay had gone to *Chunni Wala Park*,



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Shastri Nagar where Applicant, along with Sunil & Ganja, Prince & Mamu and another person, whom he knew as they were living in same vicinity, were drinking alcohol. The Applicant demanded money to bring more alcohol and when the Complainant refused to give money, the Applicant along with co-accused gave kick and fist blow to him and his friend was also beaten. Accused Sunil @ Ganja and Prince picked up the sticks and hit the Complainant and his friend. The Applicant took out a knife from his pocket and started hitting at his neck but the Complainant was able to turn, but the knife hit his head. The Applicant inflicted several blows on the head and face of the Complainant.

12. As per MLC, the injuries sustained were simple in nature with blunt object and the injured persons were discharged on the same day. There is no recovery of alleged weapon of offence, neither knife nor *danda*. The applicant is in judicial custody for last more than one year and the co-accused, who had similar role, has already been granted bail.

13. In the totality of circumstances, the Applicant- Vicky @ Vicky Tiwari, s/o Sh. Ashok Tiwari, is admitted to bail on his furnishing bail bond in the sum of Rs.15,000/- with one Surety in the like amount to the satisfaction of the Trial Court, subject to the undertaking that:-

- (i) The Petitioner shall not misuse the liberty granted to him;
- (ii) The Petitioner shall not temper with any evidence, oral or documentary during the trial;
- (iii) The Petitioner shall give his cell phone number to the Investigating Officer and keep it operational; and



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(iv) The Petitioner shall appear before the Trial Court on every date of hearing.

14. With aforesaid, the present Bail Application and miscellaneous application, are accordingly disposed of. A copy of this Order be communicated to the Jail Superintendent concerned.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 30, 2025

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