



2025:DHC:898



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

% *Judgment delivered on: 13.02.2025*

+ **BAIL APPLN. 351/2025 & CRL.M.A. 2514/2025**

RAHUL

.....Petitioner

Through: Mr. Mir Akhtar Hussain and  
Ms. Sonia Goswami Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the  
State alongwith SI Raghbir  
Prasad, P.S. Khyala

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J**

1. The present bail application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the applicant, seeking grant of anticipatory bail in case arising out of FIR bearing no. 0808/2024, registered at Police Station Khyala, Delhi, for offences punishable under Sections 109(1) of BNSS and Section 27 of Arms Act.

2. Issue notice. The learned APP accepts notice on behalf of the State.

3. Brief facts of the case are that on 31.12.2024, a PCR call was



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received at PS Khyala vide GD No. 3A, reporting a major quarrel where a vehicle was being vandalized and an attempt was made to set it on fire. Upon receiving the call, the police team had reached the spot and found a damaged Maruti Suzuki Baleno (DL10CP6208). During the inquiry, it was learned that an injured person had already been shifted to AIIMS Trauma Centre for treatment. At AIIMS, the police collected MLC No. 500470991 of the injured, identified as Raju @ Tilli. The doctor had noted a gunshot injury, mentioning an entry wound at the mandibular region and an exit wound on the right side of the neck. The injured was declared unfit for making statement. The crime team had inspected the scene of crime and had found three empty cartridges and bloodstains at the spot.

4. During the investigation, CCTV footage of the scene was collected and inspected, which showed some individuals firing firearms. Later, after receiving treatment, the injured gave his statement, revealing that the incident had taken place during a birthday celebration of his friend Rahul. Several individuals, including Nitesh, Rahul, Nabidul, Monu Chainii, and Sohail, were present at the party. During the celebration, Rahul had stated that he would call his friends who had firearms to intimidate the locality. Subsequently, Rahul had called Ajay, Naveen, Ansh Gujjar, and Anshu Solanki to the spot. They had arrived in two vehicles—a Hyundai Verna (DL4CBB3836) and a Maruti Suzuki Baleno (DL10CP6208) — and had started firing in the air. When the injured Raju had tried to stop them, the accused had become aggressive and



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attacked him. On Rahul's instigation, Ajay had climbed onto the Maruti Baleno car, taken out a firearm, and shot at Raju, injuring him near the neck.

5. After the incident, the accused persons had fled, and their residences were found vacant. With the help of technical surveillance and a secret informer, the police arrested Naveen @ Marshal on 03.01.2025 and Nitesh Mathur 04.01.2025. Further, Monit @ Anshu Solanki was arrested on 05.01.2025, who disclosed the hideout of Ansh Gujjar. Based on this information, Abhishek Verma @ Ansh Gujjar was arrested from Amritsar, Punjab. His police custody was taken to trace the co-accused and recover the firearms.

6. It is argued on behalf of the applicant Rahul that he was merely celebrating his birthday when the incident took place and had no direct role in the firing that resulted in injuries. It is contended by the learned counsel that the bullet which struck the injured was fired by co-accused Ajay, and no specific allegation has been made against the applicant regarding the act of firing. It is also submitted that since the applicant has not been attributed any overt act in causing harm to the injured, he deserves the relief of anticipatory bail and is willing to cooperate with the investigation as and when required.

7. The State has opposed the bail application on the ground that the applicant is the prime accused in a heinous offence involving an attempt to murder. It is contended by the learned APP for the State that the investigation is still at a nascent stage, and the applicant's



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release at this juncture may hamper the ongoing proceedings. It is also stated that the applicant has a history of previous criminal involvement, which strengthens the apprehension that he may not cooperate with the investigation. It is further argued that the nature and gravity of the offence, wherein the applicant had allegedly instigated and facilitated an armed attack, make him undeserving of anticipatory bail. The risk of the applicant influencing witnesses or threatening the complainant is also emphasized, given the circumstances of the case. Therefore, it is prayed that the present bail application be dismissed.

8. This Court has **heard** arguments addressed on behalf of both the parties, and has gone through the material placed on record.

9. Having gone through the case file, this Court notes that the role of present applicant Rahul in the case is central and premeditated, as he had, allegedly, actively instigated and facilitated the commission of the offence in question. It has come on record that during the birthday celebration, Rahul had openly declared his intention to call individuals possessing firearms to intimidate the residents of the locality. True to his words, he had called Ajay, Naveen, Ansh Gujjar, and Anshu Solanki, who had subsequently arrived at the scene armed with weapons. The CCTV footage corroborates that these individuals had brandished firearms and indiscriminately fired in the air to create an atmosphere of fear and lawlessness. When the injured Raju had resisted and objected to their actions, the applicant herein had further instigated the accused persons, leading to a physical altercation. It



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was on applicant's provocation that Ajay had climbed onto a vehicle and fired at Raju, causing him a grievous gunshot injury near his neck.

10. Thus, *prima facie*, it appears that the applicant was not merely present at the scene but was the catalyst behind the unlawful assembly, the introduction of firearms, and the eventual attempt on Raju's life. Moreover, the conduct of the applicant in deliberately calling individuals armed with firearms to a public gathering with the express intent to instill fear in society adds to the gravity and seriousness of the offence.

11. As summed up by the Hon'ble Supreme Court in case of *Sumitha Pradeep v. Arun Kumar C.K.: 2022 SCC OnLine SC 1529*, the factors to be considered at the stage of grant of pre-arrest bail are (i) *prima facie* case against accused, (ii) nature of offence, and (iii) severity of the punishment.

12. The allegations against the applicant are serious and grave in nature, and he has not yet joined the investigation. In the given set of facts, his custodial interrogation will also be necessary. Therefore, considering the overall facts and circumstances of the case, this Court finds no ground to grant anticipatory bail to the present applicant.

13. In view of the above, the present application for grant of anticipatory bail is dismissed. Pending application, if any, also stands disposed of.

14. Nothing expressed hereinabove shall tantamount to an



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expression of opinion on the merits of the case.

15. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**  
**FEBRUARY 13, 2025/zp**