



2026:DHC:9056



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

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Date of Decision: 12.10.2026

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CNR No.DLHC010246952026

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BAIL APPLN. 2079/2026, CRL.M.A.17186/2026**ZUBAIR**

.....Petitioner

Through: Mr. Kanishk Arora, Mr. Ishtpreet
Singh and Mr. Pradeep Arora, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The applicant/petitioner, via present petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeks regular bail in FIR No. 670/2025, dated 05.10.2025, registered at P.S. Narela, Outer North, Delhi, under Sections 109(1)/305(a)/312/61(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 25/27 of the Arms Act, 1959. It is submitted that this is the first bail application of the applicant/petitioner before this Court.

2. It is alleged in the FIR that on 05.10.2025, at about 03:33 AM, the complainant Balister Kumar and his colleagues Nitin and Kapil reached an Airtel Tower, having Tower ID 1370947, installed at Site ID 20237 at DDA Park, Balaji Apartment, Behind Jal Board Office Pump House, Sector A-7, Pocket 10, Narela. Two persons were climbing down the tower with a Remote Radio Unit (RRU). When the complainant attempted to catch these persons, one of them pulled out a pistol and fired at Nitin. Immediately after,



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both fled with the RRU. Nitin, upon being admitted to hospital shortly after, remained there till 09.10.2025. The injury was considered grievous, and the bullet was extracted and seized. The FIR was registered against unknown persons. Accordingly, the applicant was not named in the FIR.

3. The co-accused persons, namely Deepanshu and Sarvesh, were formally arrested on 14.10.2025. During interrogation, they disclosed the name of the applicant/petitioner and certain other persons. The applicant/petitioner surrendered before the Ld. Judicial Magistrate First Class (JMFC) on 27.11.2025 and was arrested.

4. In a Judicial Test Identification Parade (TIP) in the Court of Ld. JMFC Digital Traffic Court, North District, Rohini Courts, Delhi, conducted on 09.12.2025, the applicant/petitioner is stated to have been identified by the victim/injured Nitin.

5. It is the case of the State that, as per Seizure Memo dated 27.11.2024, an improvised pistol (7.65 mm bore) and three live cartridges were recovered at the applicant's/petitioner's instance from the bushes near the culvert of the drain.

6. Importantly, the FSL Ballistic Report, dated 04.02.2026, as per the State itself, states that although the aforesaid improvised pistol bore is functional, the evidence bullet does not match the test-fired recovered bullets.

7. It is noticed that the chargesheet has been filed on 05.01.2026. It is also submitted that a supplementary chargesheet was filed thereafter. *Vide* order dated 08.10.2026, charges have been framed by Ld. ASJ-03, North District, Rohini Courts, Delhi. All the other co-accused are stated to have been granted bail.



8. In the above circumstances, this Court is inclined to release the applicant/petitioner on bail on several considerations. Firstly, as per the FSL Ballistic Report, there has been a mismatch between the evidence bullet and the test-fired recovered bullets. This mismatch dilutes the *prima facie* case against the petitioner. With regard to this, a reference can be made to the Supreme Court's decision in ***The State of Rajasthan v. Indraj Singh*, 2025 INSC 341**, wherein it reproduced the following observations of ***Mahipal v. Rajesh Kumar*, (2020) 2 SCC 118**:

"12. The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are important. No straitjacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused subverts the purpose of the criminal justice system. Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail."

(emphasis supplied)

9. Secondly, other co-accused, namely Deepanshu and Sarvesh, have been granted bail. The key distinguishing circumstance of the recovery of the pistol bore pursuant to the disclosure statement made by the petitioner stands countered by the aforesaid mismatch recorded in the FSL Ballistic Report. Accordingly, the position of the applicant/petitioner cannot, at this stage, be said to be materially distinguishable from that of the co-accused persons who have already been granted bail. The Supreme Court in ***Sagar v.***



State of UP, 2025 INSC 1370, held that parity, despite not being the sole factor, is a relevant consideration in deciding bail applications. While doing so, it affirmed and emphasised the following holding of this Court in **Harbhajan Singh v. State, 2016 SCC OnLine Del 4920**:

“15. ... In this regard, this Court thinks fit to reiterate the settled principle that in a criminal jurisprudence, every case stands on different footings and no straightjacket formula can be adopted in the facts of each case. No doubt, the weight of judicial parity should be followed, but on the other hand, this Court is of the conscious opinion that the word ‘parity’ connotes a state when a person is placed on the same footing as of the other person. This court is also of the opinion that that parity cannot be the sole ground for granting bail in a case where the bail applications of other co-accused whose bail applications had been allowed and are released on bail. It is purely a discretion of the court. Before granting or refusing bail, the court must satisfy itself after considering the material placed on record and further developments in the investigations or otherwise and other peculiar circumstances of each case, which show that there are sufficient grounds for releasing the applicant on bail **If on examination of any case, it transpires that the case of the applicant before the court is identically similar to the accused on facts and circumstances, who has been bailed out, then the desirability of consistency will require that such an accused should be also released on bail.**”

(emphasis supplied)

10. Thirdly, the investigation in the present matter has been completed, as the chargesheet has been filed on 05.01.2026. Furthermore, the charges have been framed. This Court, in **Mukesh @ Bhola v. State (Govt. of N.C.T.) of Delhi, Bail Application 4070/2025**, vide order dated 03.12.2025, while relying on the Supreme Court’s landmark decision in **Satendar Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51**, released an accused charged under Sections 25 and 27 of the Arms Act, on the following grounds:

“9. The settled principle is that **bail is the norm** and pre-trial detention is to be resorted to only where necessary to secure the accused’s presence at trial or to protect the integrity of the process. **Bail is not intended to be**



either punitive or preventive in itself. The length of custody, the completion of investigation, and the absence of any demonstrated need for further custodial interrogation are all relevant considerations.”

(emphasis supplied)

11. Fourthly, the applicant/petitioner has already spent around eight months in judicial custody, and the prosecution evidence is yet to be adduced. In **Arvind Dham v. Enforcement Directorate, (2026) 7 SCC 330**, the Supreme Court, while granting bail, has observed as under:

“15. It is well settled that if the State or any prosecuting agency including, the court concerned has no wherewithal to provide or protect the fundamental right of an accused, to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] . The aforesaid proposition was quoted with approval by another two-Judge Bench of this Court and it was held that long period of incarceration for around 17 months and the trial not even having commenced, the appellant in that case has been deprived of his right to speedy trial [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : (2026) 1 SCC (Cri) N-14] .

18. The right to speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence. Prolonged incarceration of an undertrial, without commencement or reasonable progress of trial, cannot be countenanced, as it has the effect of converting pretrial detention into form of punishment. Economic offences, by their very nature, may differ in degree and fact, and therefore cannot be treated as homogeneous class warranting a blanket denial of bail.”

(emphasis supplied)

12. This Court in **Shadab v. State (GNCT of Delhi), Bail Application 610/2025**, vide order dated 16.09.2025, released the accused therein, charged under Sections 25 and 27 of the Arms Act, on bail after considering aspects which are similar to those which fall for consideration in the present case. It was observed as under:



“8. Furthermore, what makes the case favourable for the applicant to seek bail at this stage is the fact that the testimonies recorded of the prosecution witnesses appear to be tilted more in favour of the applicant rather than the prosecution. Though, of course all that is a matter of trial. As many as 11 key eyewitnesses, including the complainant and injured persons, are stated to have turned hostile and did not identify the applicant or co-accused. Following their testimony, all co-accused, even those identified in TIP, were granted bail, except the applicant. The FSL report further discredited the case by confirming that recovered bullets did not match the alleged weapon attributed to the applicant, and witnesses later failed to identify either the weapon or the applicant as being present at the incident.

13. Moreover, all co-accused persons have since also been granted bail, the applicant also deserves same relief on ground of parity.”

(emphasis supplied)

13. The Supreme Court’s decision in ***Jalaluddin Khan v. Union of India***, (2024) 10 SCC 574, observed as under:

“33. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the court cannot decline to grant bail. If the courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Article 21 of our Constitution.”

(emphasis supplied)

14. Accordingly, the applicant/petitioner is admitted to regular bail on furnishing a personal bond of Rs. 25,000/-, with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions:

- i. The applicant/petitioner shall not leave the NCT of Delhi or travel out of the country without the prior permission of the trial Court;
- ii. The applicant/petitioner shall provide his permanent address to



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the trial Court, and also the address where he will be residing during the pendency of the case;

- iii. The applicant/petitioner shall intimate the Investigating Officer (IO) and file an affidavit before the trial Court regarding any change in his residential address;
- iv. The applicant/petitioner shall furnish his mobile number to the Investigating Officer (IO)/Station House Officer (SHO) concerned, which shall be kept in working condition at all times. The mobile number shall be kept switched on, with location services enabled at all times, and the same shall be shared with the IO. The mobile number shall not be changed without prior intimation to the IO during the pendency of the trial;
- v. The applicant/petitioner shall report to the IO as and when called upon to do so;
- vi. The applicant/petitioner shall not, directly or indirectly, contact the injured Nitin or the complainant or their family members or any other prosecution witness;
- vii. The applicant/petitioner 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;
- viii. The applicant/petitioner shall appear before the trial Court on each and every date of hearing;
- ix. The applicant/petitioner shall not indulge in any criminal activity during the period of bail; and



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- x. The applicant/petitioner shall report to the concerned SHO on the first Monday of every month at 11:00 A.M. and be discharged by 12:00 P.M., after his presence is recorded and the necessary formalities are completed.
15. If any of these conditions is breached, it shall be open to the State to seek cancellation of bail.
16. The present application is disposed of in the above terms. Pending application(s), if any, also stand disposed of.
17. It is clarified that the observations made herein are solely for the purpose of deciding the present bail application and shall neither influence the trial proceedings nor be construed as an expression of opinion of this Court on the merits of the case.
18. Let a copy of this order be communicated to the concerned Jail Superintendent, electronically, for information and necessary compliance.

SACHIN DATTA, J

OCTOBER 12, 2026/r,vk