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

% ***Date of Decision : 25.11.2026***

\# **CNR No.DLHC010560042026**

\+ **BAIL APPLN. 5015/2026, CRL.M.A.36421/2026**

SIDDHARTH .....Petitioner

Through: Mr. V.P. Singh, Mr. Shubham Sharma Mr. Rohit Singh Negi, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Aashneet Singh, APP for the State.
SI Kuldeep and SI Deepak, PS Sarai Rohilla.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*ORAL*)

1. By way of the present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("*BNSS*"), the applicant seeks regular bail in case arising out of FIR No.735/2025 dated 09.11.2025 registered under Sections 109(1) and 3(5) of the Bhartiya Nyaya Sanhita, 2023 ("*BNS*") and Sections 25 and 27 of the Arms Act, 1959, at P.S. Sarai Rohilla. The two earlier bail applications of the applicant were dismissed by the learned Additional Sessions Judge-02, Central, Tis Hazari Courts, Delhi *vide* orders dated 20.04.2026 and 08.09.2026.

2. The factual background as set out in the FIR is as under:

i. According to the complainant, about 20 - 25 days prior to the incident, he had lent a sum of Rs.4,50,000/- to the applicant, who

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Signing Date:26.11.2026 12:16:57

had undertaken to repay the same within 15 days along with an additional sum of Rs.20,000/-.

ii. The applicant, in turn, passed on the said amount to one Rohit on his own guarantee. The amount was not repaid within the stipulated period.

iii. On 05.11.2025, at about 08:30 PM, the complainant, at the applicant's call, went to the applicant's rented flat at Sindhora Kalan, Delhi, and demanded repayment of the money. The applicant stated that he had given the money to Rohit, who would repay the same.

iv. Thereafter, an altercation ensued between the complainant and Rohit, whereupon Rohit called one Dahiya to the spot. Dahiya threatened the complainant with a pistol and, at about 12:00 midnight, at the instance of Rohit, fired at the complainant, the bullet hitting him above the left knee.

v. The allegations against the applicant in the FIR are that he did not stop Rohit or Dahiya and that, while fleeing from the spot, he asked the complainant to get himself treated at Ishan Hospital, Rohini, assuring him that no police case would be registered.

3. The chargesheet against the applicant was filed on 19.02.2026 and charge under Sections 109(1) read with Section 3(5) BNS has been framed against him *vide* order dated 20.03.2026. The applicant has been in custody since 23.11.2025.

4. It is noticed that in the chargesheet, Section 238 BNS has also been invoked against the applicant, however, as noticed, the charge has been framed only under Sections 109(1) read with Section 3(5) BNS.

5. Learned counsel for the applicant submits that the applicant was not

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Signing Date:26.11.2026 12:16:57

involved in the firing of any weapon and the same has not even been attributed to him in the FIR. It is submitted that the alleged shooter and the person who called him (i.e. Dahiya and Rohit) are both on bail (*vide* orders dated 04.04.2026 and 11.04.2026 passed by the learned trial Court respectively).

6. It is noticed that the complainant did not identify the alleged shooter, Dahiya, in the Judicial Test Identification Parade. The investigation *qua* the applicant stands completed, the chargesheet has been filed, and charge has been framed *vide* order dated 20.03.2026. The injury sustained by the complainant has been opined to be simple. The applicant has been in custody since 23.11.2025, i.e., for more than a year.

7. It is further noticed that, out of 22 prosecution witnesses, only 3 have been examined so far. From the order sheets of the learned trial Court, it is evident that the complainant has failed to appear on several dates despite service (i.e. orders dated 29.04.2026, 02.07.2026, 14.10.2026 and 29.10.2026) and has sought exemption on other dates (orders dated 11.07.2026 and 22.10.2026). The delay in the progress of the trial is, thus, not attributable to the applicant.

8. Learned APP for the State opposes the application on the ground that the applicant can threaten the witnesses.

9. I have given my thoughtful consideration to the matter.

10. Given the totality of circumstances, the applicant is entitled to bail for the following reasons:

(i) The foremost aspect that weighs with the Court is that the FIR does not attribute any role to the applicant in the firing upon the complainant.

(ii) The persons who were involved in the actual shooting as per the

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allegations in the FIR, namely, Dahiya (the alleged shooter) and Rohit (at whose instance the shot was allegedly fired), have already been granted bail.

(iii) It is well settled that parity cannot be claimed as a matter of right, and the Court must examine the role attributed to the accused seeking bail. In this regard, reference may be made to ***Tarun Kumar v. Assistant Director, Directorate of Enforcement***, 2023 SCC OnLine SC 1486, wherein the Supreme Court has observed as under:

> *"**17.** The submission of the learned counsel Mr Luthra to grant bail to the appellant on the ground that the other co-accused who were similarly situated as the appellant, have been granted bail, also cannot be accepted. It may be noted that parity is not the law. While applying the principle of parity, the court is required to focus upon the role attached to the accused whose application is under consideration……"*

This was reiterated in ***Sagar v. State of U.P.***, 2025 SCC OnLine SC 2584 : 2025 INSC 1370, wherein the Supreme Court observed as under:

> *"11. It is clear from the perusal of the above factors that the High Court failed to consider all that was relevant. On parity, it is necessary to refer to Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana(Koli) and Anr.4. This Court observed that while utilizing parity as a ground for bail, the same must focus on the role of the accused and cannot be utilized solely because another accused person was granted bail in connection with the same offence, and neither can this ground be claimed as a matter of right. [See also: Tarun Kumar v. Assistant Director Directorate of Enforcement5; Sabita Paul v. State of West Bengal and Anr.6]*
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> ***12.** The High Court appears, plainly, to have erroneously granted bail to the accused-respondent on the sole ground of parity which it has misunderstood as a tool of direct application as opposed to parity being focused on the role played by the accused and not the thread of the same offence being the only common factor between the accused persons. On this count alone we can set aside the impugned judgment and order. However, we propose not to do so and proceed to delve further.*
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> ***14.** What flows from the above judgments, which have been referred to, only to the limited extent indicated above, is that the High Courts speak*

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in one voice that parity is not the sole ground on which bail can be granted. That, undoubtedly, is the correct position in law……."

On the above touchstone, taking into account the allegations, the applicant stands on a better footing than the co-accused already enlarged on bail.

(iv) What further weighs with the Court is that the applicant has already spent more than a year in custody. Only 3 out of 22 prosecution witnesses have been examined so far and the delay is not attributable to the applicant. The record reveals that the complainant has remained absent on several dates despite service (orders dated 29.04.2026, 02.07.2026, 14.10.2026 and 29.10.2026), and has sought exemption on other dates (orders dated 11.07.2026 and 22.10.2026).

(v) The previous involvements relied upon by the State are eight FIRs of the years 2017 to 2020, under provisions relating to theft, robbery and gambling. Nothing on record shows a conviction in any of them. They do not, by themselves, justify the continued detention of the applicant, who has been in custody throughout the period during which the complainant has stayed away from the trial.

11. Accordingly, the applicant is directed to be released on regular bail on furnishing a personal bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned 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 prior permission of the trial Court;

ii. The applicant/petitioner shall provide his permanent address to

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Signing Date:26.11.2026 12:16:57

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 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 complainant or his 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

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

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12:00 P.M., after his presence is recorded and the necessary formalities are completed.

12. If any of these conditions is breached, it shall be open to the State to seek cancellation of bail.

13. The present application is disposed of in the above terms. Pending application also stand disposed of.

14. 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.

15. Let a copy of this order be communicated to the concerned Jail Superintendent, electronically, for information and necessary compliance.

SACHIN DATTA, J

NOVEMBER 25, 2026/r, ka

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