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

% ***Date of Decision : 27.11.2026***

\# **CNR No.DLHC010543072026**

\+ **BAIL APPLN. 4828/2026**

(107) ABHINAV KUMAR@ABHINAV .....Petitioner

Through: Mr. Rahul Sharma, Mr. Abhinav Kaushik, Mr. Abhishek Dwivedi, Mr. Amit Chaudhary, Mr. Ujjawal Kant Pandey, Ms. Sakshi Gopal, Mr. Abhimanyu Gangwar, Mr. Kuldeep Gurjar and Mr. Nikhil Jayant, Advs.

versus

STATE (GOVT. OF NCT OF DELHI) .....Respondent

Through: Mr. Hemant Mehla, APP for the State along with Mr. Mohd. Naved and Mr. Mayank Chaudhary, Advs.
SI Arun Kumar, PS Mukherjee Nagar.

\# **CNR No.DLHC010545532026**

\+ **BAIL APPLN. 4857/2026, CRL.M.A. 35388/2026**

(108) ABHIMANYU KUMAR .....Petitioner

Through: Mr. Rahul Sharma, Mr. Abhinav Kaushik, Mr. Abhishek Dwivedi, Mr. Amit Chaudhary, Mr. Ujjawal Kant Pandey, Ms. Sakshi Gopal, Mr. Abhimanyu Gangwar, Mr. Kuldeep Gurjar and Mr. Nikhil Jayant, Advs.

versus

STATE (GOVT. OF NCT OF DELHI) .....Respondent

Through: Mr. Hemant Mehla, APP for the State along with Mr. Mohd. Naved and Mr. Mayank Chaudhary, Advs.
SI Arun Kumar, PS Mukherjee Nagar.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*ORAL*)

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1. By way of the applications filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 439 of the Code of Criminal Procedure, 1973), the applicants seek regular bail in case arising out of FIR No. 390/2026, dated 24.09.2026, registered at P.S. Mukherjee Nagar, North West District, Delhi, under Sections 78/79/3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter "*BNS*"). It is disclosed in the Status Report dated 14.10.2026 that Sections 62/74/78(2)/140(3) of the BNS were also incorporated on the basis of the statement of the victim, recorded under Section 183 of the BNSS during the course of the investigation.

2. The factual conspectus, as stated in the aforesaid FIR, is that at about 09:30 PM, on 23.09.2026, the complainant, a young woman, and her friend were walking from Hakikat Park towards Old Gupta Chowk. The occupants of a white car bearing no. DL11CF4447 passed comments, abused them, and followed them.

3. It is specifically alleged in the FIR that when the car stopped in the middle of the crossing, the boy who was driving the car came out and tried to pull the complainant inside. However, when the friend of the complainant took her mobile out to record the video, the occupants drove away.

4. It is confirmed by the Investigating Officer (IO), who is present in the Court, that the concerned driver of the car was co-accused, namely, Naman. FIR was registered on 24.09.2026. Both the applicants were arrested on 26.09.2026. They have been in custody ever since, *i.e.*, for more than two months.

5. It is pointed out by the learned counsel for the applicants that co-accused Naman has already been granted interim protection by this Court on

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02.11.2026 in Bail Application No. 4642/2026.

6. On 09.10.2026, the learned ACJM (North), Rohini Courts, in Bail Matters 873/2026, rejected the bail applications of both the applicants/petitioners. On 22.10.2026, the learned Additional Sessions Judge-04, North District, Rohini Courts, Delhi, also rejected the bail applications of both the applicants/petitioners.

7. Learned counsel for the applicants/petitioners submits that the applicants/petitioners were merely passengers in the car. He further submits that they were not driving the car, did not get out of the same, and did not have any interaction with the complainant or her friend. It is emphasised that the alleged physical act was attributed to the driver of the car, who has already been granted interim protection by this Court. Further, it is submitted that the applicants are law students.

8. On the contrary, learned APP for the State opposes the present applications. He submits that both accused persons have participated in the commission of the offences. He also informs that the chargesheet in the matter has already been filed.

9. I have given my thoughtful consideration to the matter. In my opinion, the applicants are entitled to bail for the following reasons:

a. It turns out that the only physical act alleged in the FIR is attributable to co-accused Naman, who has already been granted interim protection by this Court on 02.11.2026 in Bail Application No. 4642/2026. No specific act is attributable to either of the applicants.

b. No doubt, the allegations are serious. However, it is well settled that the gravity of the offence by itself cannot be a factor for

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denying bail. In this regard, reference may be made to the decision of the Supreme Court in ***Prabhakar Tewari v. State of U.P.*, (2020) 11 SCC 648**, wherein the Court observed as under:

> *"7. ... **The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.** The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed."*
>
> (emphasis supplied)

c. Moreover, it is noticed that the chargesheet in the matter has already been filed. None of the offences carries imprisonment beyond 7 years. No further purpose would be served by keeping the applicants in custody. The apprehension regarding applicants contacting the complainants can be addressed by imposing suitable conditions.

10. This Court, while granting interim protection to co-accused Naman, observed as follows:

> *"15. No doubt, the allegations are serious. The conduct of the petitioner in not initially joining the investigation also reflects negatively on the petitioner. However, this Court takes note of the following circumstances:*
> *(i) None of the offences invoked is punishable with imprisonment exceeding seven years;*
> *(ii) The car has been recovered and the petitioner's mobile phone has been seized. The CCTV footage has also been obtained by the*

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police. In the reply filed by the State to the anticipatory bail application before the learned ASJ, it was specifically averred as under:

> *"3. That during investigation, CCTV cameras installed at and around the place of occurrence were checked and relevant CCTV footage was obtained pursuant to notices issued under Section 94 BNSS. The said CCTV footage is being examined and corroborated with the statements of the victims/witnesses, CDR analysis and other technical/material evidence. The accused Naman is required to be confronted with the relevant CCTV footage and other evidence in order to establish the sequence of events and his specific role in the commission of the offence."*

(iii) The petitioner has since joined the investigation and is stated to have cooperated. This fact is confirmed by the learned APP for the State, on instructions.

(iv) The petitioner is a law student and is stated to have no criminal antecedents."

The above considerations also apply to the present petitioners.

11. This Court cannot withhold bail in the present case as a punitive measure. In this regard, a reference may be made to the Supreme Court's decision in ***Sanjay Chandra v. CBI*, (2012) 1 SCC 40**, wherein the Court, *inter alia*, observed as under:

> *"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail.* ***The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon.*** *The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.*
>
> *22.* ***From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some***

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> ***unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test.*** *In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.*
>
> *23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and* ***it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.***"
>
> (emphasis supplied)

12. It can hardly be gainsaid that bail is the rule and jail the exception. This position has been affirmed and reiterated by the apex Court in a catena of decisions. It would be apposite to make a reference to the Supreme Court's decision in ***Syed Iftikhar Andrabi v. National Investigation Agency, Jammu*, 2026 INSC 503**, wherein the Court, *inter alia*, observed as under:

> "***35. The often invoked phrase 'bail is the rule and jail is the exception' is not merely an empty statutory slogan flowing from the CrPC as Gurwinder has stated. It is a constitutional principle flowing from Articles 21 and 22 of the Constitution and the presumption of innocence which is the cornerstone of any civilised society governed by the rule of law.*** *Statutes may undoubtedly calibrate the manner in which that principle is applied …*"
>
> (emphasis supplied)

13. The Supreme Court in ***Manish Sisodia v. Directorate of***

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***Enforcement,* 2024 INSC 595**, has made a similar observation in the following terms:

> "*53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten* ***a very well-settled principle of law that bail is not to be withheld as a punishment****. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail.* ***The principle that bail is a rule and refusal is an exception is, at times, followed in breach.*** *On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency.* ***It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception"****."*
>
> (emphasis supplied)

14. Accordingly, the applicants are admitted to regular bail on furnishing a personal bond in the sum of Rs.10,000/- each, with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions:

(i) the applicants shall not leave NCT of Delhi or travel out of the country without prior permission of the trial Court;

(ii) the applicants shall appear before the learned trial Court on each and every date of hearing, unless specifically exempted by the trial Court;

(iii) the applicants shall provide their permanent address to the learned trial Court, and also the address where they will be residing during the pendency of the case;

(iv) the applicants shall intimate the Investigating Officer (IO) and file an affidavit before the Trial Court regarding any change in his residential address;

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(v) the applicants shall furnish their 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. The mobile number shall not be changed without prior intimation to the IO during the pendency of the trial;

(vi) the applicants shall report to the IO as and when called for by the IO;

(vii) the applicants shall not directly or indirectly contact or influence the complainants or any prosecution witness or the family members of the complainants;

(viii) the applicants 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;

(ix) the applicants shall not indulge in any criminal activity during the period of bail; *and*

(x) the applicants shall report to the concerned SHO, on the first Monday of every month at 11:00 a.m. and shall be discharged by 12:00 noon, after recording their presence and completion of the necessary formalities.

15. It is made clear that any breach of the aforesaid conditions shall entitle the State to seek cancellation of bail.

16. It is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case and the learned trial Court shall proceed with the trial uninfluenced by any observations made herein.

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17. A copy of this order be sent to the Jail Superintendent concerned for information and necessary compliance.

18. The applications are disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

NOVEMBER 27, 2026/r,vk

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