



2026:DHC:8243



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

% **Date of Decision: 23rd September, 2026**

CNR No. DLHC010454482026

+ **BAIL APPLN. 4002/2026 & CRL.M.A. 29653/2026**

MOHAMMAD SHAHRUKHApplicant

Through: Mr. Asad Iqbal with Mr. Abuzar,
Advocates.

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Email: asadiqbaladvocate@gmail.com

versus

THE STATE GOVT. OF N.C.T. OF DELHIRespondent

Through: Mr. Sunil Kumar Gautam, APP for
the State.

(M): 9871349009

Email: sunil.skgautam@gmail.com

Mr. Kirti Uppal, Senior Advocate
with Mr. Sacchin Puri, Senior
Advocate with Mr. Zafar Khan, Mr.
Rohan Gupta, Mr. Sunil Kumar, Mr.
Harsh Vardhan, Mr. Salman Hashmi,
Ms. Shruti Jain, and Ms. Geetanjali
Tyagi, Mr. Mohd. Furqan and
Mr. Moiz Illahi, Advocates for the
complainant.

(M): 9999225726

Email: advfurqanahmadd@gmail.com

Inspector Balwant Singh, PS H.
Nizamuddin.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. (ORAL):

1. The present application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS")/ Section 438 of the



2026:DHC:8243



Code of Criminal Procedure, 1973 (“CrPC”) read with Section 528 of the BNSS/ Section 482 of the CrPC for grant of anticipatory bail to the applicant in connection with the First Information Report (“FIR”) being *FIR 226/2025* dated 02nd August, 2025, under Sections 109(1)/332(B)/189(4)/191/3(5) of the Bharatiya Nyaya Sanhita, 2023 (“BNS”), and Sections 25/54/59 of the Arms Act, 1959 (“Arms Act”), at Police Station (“PS”) Hazrat Nizamuddin, South-East District, Delhi.

2. It is submitted that the Additional Sessions Judge (“ASJ”)-03, South-East, Saket Courts, Delhi, *vide* order dated 18th September, 2026, has already dismissed an application of the applicant herein seeking anticipatory bail.

3. Learned counsel appearing for the applicant submits that it is only recently that the applicant came to know that the police officials of the PS Hazrat Nizamuddin, were searching for him in connection with *FIR 226/2025*.

4. The *FIR 226/2025* was lodged by one Mr. Wasim, wherein, he has stated that on 01st August, 2025, at around 10:00 PM, when he was sitting at his cousin’s shop named *Qibla Perfume*, at *Basti Hazrat Nizamuddin, Delhi*, the accused, i.e., Mr. Ahsan along with his sons, namely, Mr. Saif and Mr. Sahnoor and other persons barged into the shop and started hurling abuses and assaulted Mr. Wasim-complainant. He has further alleged that four to five rounds of pistols were fired targeting him, which resulted in a bullet striking his brother in the leg.

5. Learned counsel appearing for the applicant submits that the applicant was neither originally named in *FIR 226/2025* nor during the initial investigation as directed by the Court.



2026:DHC:8243



6. He further submits that the initial investigation culminated in the filing of a Chargesheet, wherein, the name of the applicant was not furnished anywhere, including column no. 12 of the said Chargesheet.
7. It is submitted by the learned counsel for the applicant that the said Chargesheet was filed after thorough investigation, wherein, statements of the complainant and prosecution witnesses, along with the relevant Call Detail Records (“CDRs”) and CCTV footage, were duly collected by the Investigating Officer (“IO”) and absolutely no incriminating material was found against the applicant.
8. It is further submitted that after already taking cognizance of the matter, a new IO filed a Status Report claiming to conduct further investigation in the matter, and under this pretext, the said IO purportedly relied upon a belatedly produced CCTV footage and recorded supplementary statements of the complainant, i.e., Mr. Wasim, and an alleged independent witness, who identified the applicant herein in the said CCTV footage. Thus, the present petition for anticipatory bail has been filed.
9. Learned counsel for the applicant has vehemently argued before this Court today that the applicant is a young student of about 20 years of age, having no past antecedents and no implication in any criminal case prior to the present case.
10. *Per contra*, learned Additional Public Prosecutor (“APP”) for the State disputes the aforementioned submissions made by the learned counsel appearing for the applicant. He has handed over to this Court a Status Report dated 23rd September, 2026, which is taken on record.
11. As per the said Status Report, after investigation was done, the case



2026:DHC:8243



was assigned for further investigation to another IO. During the course of further investigation, on the basis of the CCTV footage, the applicant herein was identified.

12. It is submitted that thereafter the police visited the residence of the applicant, however, neither was he was found there, nor did he join the investigation.

13. This Court is further informed that the police also visited *Bulandshahr, Uttar Pradesh*, i.e., the original place of residence of the applicant. However, the applicant was not found there as well. Further, his whereabouts were also not disclosed by his family members.

14. Thus, learned APP for the State submits that Non-Bailable Warrant (“NBW”) was issued against the applicant by the Trial Court on 04th August, 2026. Since the applicant was not traceable, the process under Section 84 of the BNSS to declare the applicant as absconding, was initiated by the Trial Court on 20th August, 2026.

15. Learned Senior Counsel appearing for the complainant puts in appearance and submits that the complainant is a practising advocate. It is submitted that there were fifteen other persons, who have also been named as accused in *FIR 226/2025*, and are alleged to have indulged in unlawful activity of beating the complainant.

16. Further, the said accused persons also indulged in firing rounds from pistols, as a result of which, the brother of the complainant was shot.

17. This Court is informed that four persons were injured during the incident in question.

18. Learned Senior Counsel appearing for the complainant has also handed over to this Court, photographs of the incident in question, which are



2026:DHC:8243



taken on record. The said photographs clearly show that the applicant was an active participant and not a mere mute spectator to the incident in question. In the said photographs, the applicant is clearly seen to be holding a big pot of plant in an action of throwing the same towards the Shop.

19. Learned Senior Counsel for the complainant has also shown a video to this Court, wherein, the applicant, who has been identified by the learned Senior Counsel for the complainant, can clearly be seen to be an active participant in the incident in question, holding the big pot of plant and throwing the same at the Shop.

20. Having heard the learned counsels for the parties, and considering the nature and manner of the occurrence, and the specific role attributed to the applicant, this Court finds no ground for granting any relief to the applicant.

21. This Court also takes note of the fact that the petitioner is stated to be a close family member of the main accused who fired multiple gun shots with pistol at the time of incident.

22. In this regard, this Court affords attention to the holding of the Supreme Court in the decision of *Srikant Upadhyay and Others Versus State of Bihar and Another*, (2024) 12 SCC 382, whereby, it has been emphasised that the inherent power to grant anticipatory bail is an extraordinary power, and the same should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. The relevant portion of the judgment is reproduced as under:

“xxx xxx xxx

30. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the



question of its grant should be left to the cautious and judicious discretion by the court depending on the facts and circumstances of each case. While called upon to exercise the said power, the court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the court shall not pass an interim protection pending consideration of such application as the section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously defying orders and keeps absconding is not entitled to such grant.

xxx xxx xxx”

(Emphasis Supplied)

23. This Court also takes note of the submission made by learned APP for the State that the applicant has failed to join the investigation, and therefore, the police would require the custodial interrogation of the applicant for effective investigation in connection with *FIR 226/2025*.
24. The allegations against the petitioner are grave and serious, with the petitioner having played an active role in assaulting the victim, in a collective action with his family members.
25. Considering the overall conspectus of the facts and circumstances of the present case, this Court is not inclined to grant anticipatory bail to the applicant.
26. The present applications are accordingly dismissed.



2026:DHC:8243



27. However, it is clarified that the observations made herein are solely for the purpose of adjudication of the present proceedings, and shall neither be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of proceedings.

MINI PUSHKARNA, J

SEPTEMBER 23, 2026

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