



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

% *Pronounced on: 13th February, 2025*

+ **BAIL APPLN. 4601/2024**

UJJAWAL SHARMA

S/o Late Sh. Satyanarian Sharma,

R/o 81, 2nd Floor, Surya Niketan,

Anand Vihar, Delhi-110092

.....Petitioner

Through: Mr. Lal Singh Thakur, Mr. Sudhir
Tewatia, Mr. Hemant Kapoor, Mr.
Vishal Ji, Ms. Mayuri Luthra, Mr.
Mehul Gulati, Mr. Lokesh Solanki,
Ms. Muskan and Mr. Tarun Maan,
Advocates.

versus

GOVT OF NCT OF DELHI

Through SHO, P.S.: Shahdara, Delhi

.....Respondent

Through: Mr. Satinder Singh Bawa, APP for
the State with SI Sanjay Meena, PS
Shahdara.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. First Bail Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) (*old Section 439 of the Code of Criminal Procedure, 1973*) read with Section 528 of B.N.S.S. (*old Section 482 of CrPC*) has been filed on behalf of Ujjawal Sharma for grant of Regular Bail in FIR No. 0440/2024 under Section 281/125(A)/106/105 of the *Bharatiya Nyaya Sanhita, 2023* registered at Police Station Shahdara, Delhi.



2. It is submitted that the Applicant had filed two Bail Applications before the learned Trial Court, which have both been dismissed on 29.11.2024 and 10.12.2024 respectively. It is asserted that the FIR was registered on a Complaint filed by Sh. Vikas Sharma, the Complainant wherein he has been falsely implicated by making false allegations of his involvement in the road accident.

3. On 09.11.2024 at about 11:00 p.m., Head Constable Yogender Singh along with 2/3 police officials, came to his residence where he is residing with his widowed mother and took the Applicant into custody despite protest, without disclosing the reasons and grounds for arrest.

4. Subsequently, Mr. Shivam Sharma, brother of the Applicant, was called in the Police Station Shahdara, at night and in the most unlawful and illegal manner, the police officials made a demand of Rs.5,00,000/- for releasing the Applicant. They also informed that the Applicant had committed a road accident in the morning at about 11:00 a.m. with his Mahindra Car KUV 100 having registration No. DL 12 CL 7929 and injured a driver of TSR No. DL 1 RZ 2549 along with another scooty bearing registration No. DL 5S DA 0295, at Shahdara flyover. Somehow, his brother under pressure arranged Rs.1,00,000/-, which was handed over to the police officials despite which the Applicant was falsely implicated in this Case.

5. The car of the Applicant bearing registration No. DL 12 CL 7929 has already been handed over to the Police, through the brother on 10.11.2024 at about 12:30 a.m, from Shastri Park Metro Station towards Gandhi Nagar road where he had parked the vehicle due to bursting of Right Hand Side tyre, which had hit the iron pipe at the construction site of the Shahdara flyover.



6. In the afternoon of 10.11.2024, the Applicant was shocked and surprised to see the badly damaged and smashed condition of his vehicle in the Police Station, while its condition was perfect at the time when it was handed over to the Police. Even the green marks on the front RHS bumper, below the headlights, were also created in order to connect the vehicle with the accident. Apparently, police officials have intentionally and deliberately smashed the Applicant's car with *mala fide* intention to plant the aforesaid case on the Applicant.

7. It is further asserted that on 21.11.2024, the Applicant's mother received a call from ASI Vinay that she must reach with Rs.1,00,000/- and one surety to the Court, for the Applicant to be released on bail. Even the Bail Order dated 20.11.2024 was forwarded on the mobile phone of the brother of the Applicant at about 4:00 p.m. However, on reaching the Court, Head Constable took Rs.50,000/- more to file the Report without giving any explanation about the Bail Order dated 20.11.2024.

8. On 26.11.2024, the Bail Application was dismissed by the Court and surprisingly the Orders dated 20.11.2024 and 26.11.2024 are almost written in the same manner except "*not to release on bail*", in the end.

9. After making enquiry, it was found that the TSR had met with an accident with another Car No. UP 14 EQ 8747, which has been duly recorded and circulated on the social media platform by unknown vlogger showing the damaged condition of both the aforesaid vehicles, as well as the time and place of incident. The Applicant's car, however, was not damaged in the front portion bonnet area, but surprisingly the damaged Auto, shows no sign of hitting on the left side of the TSR. The difference in the photographs of the car of the Applicant and the place of handing over the



custody, therefore show that the police officials have intentionally and deliberately damaged the car with sole intention to implicate him in the aforesaid case.

10. The Applicant was under tremendous mental pressure on account of his matrimonial dispute with his wife and attended a counselling session on 08.11.2024 at District Court, Karkardooma. He also disclosed about his medical condition to the police officials, who forced him to have a drink in the Polic Station, in order to frame a case of drunk driving. Surprisingly, Case under Section 106 was registered but intentionally to show a more serious case, Section 105 of B.N.S., 2023 was introduced in order to compel the family of the Applicant, to pay additional Rs.3,00,000/-. The police officials are also threatening the family members that if they will not co-operate, they would implicate him in various other criminal cases.

11. Due to subsequent additional Section 105 of B.N.S, 2023, the Bail Application under Section 483 of B.N.S.S., 2023, has been dismissed *vide* impugned Order dated 29.11.2024 by the learned ASJ (FTC), Shahdara District, KKD Courts, Delhi.

12. The mother of the Applicant has been much harassed, humiliated, tortured, and cheated by the police officials, who have taken the advantage of his mother's status as a widow and planted the Applicant's car in the accident. The mother has already made a detailed Complaint dated 30.11.2024 to the senior police officials.

13. Due to illegal acts of the police officials of creating false evidence and extortion, the Applicant was forced to move an Application under Section 94 of B.N.S.S., 2023, before the learned CJM, Karkardooma Courts, Delhi



and the Court allowed the Application to recover the CCTV footage and also directed investigation in the Charges of bribery against the police officials.

14. Without considering all these circumstances, the learned ASJ (FTC), Shahdara District, KKD Court, has dismissed the second Bail Application *vide* Order dated 10.12.2024.

15. It is submitted that at the stage of granting Bail at elaborate examination of evidence and detailed reasons touching the merits of the case, would prejudice the accused and must be avoided. There is a presumption of innocence of an Applicant and his imprisonment for an excessively long amount of time, is not justified in the light of the observations made by Hon'ble High Court of Himachal Pradesh in *Ishwar Chand vs. Govt. of Himachal Pradesh*, MANU/HP/0026/1975.

16. It is further contended that Section 105 and 106 of B.N.S., 2023 has been added without there being any basis, as it is not a case of culpable homicide not amounting to murder and these Sections have been added for the reasons best known to the prosecution agency.

17. It is also submitted that the alleged incident took place at around 10:00 a.m. but deliberately, his medical was conducted after about 12 hours of the alleged incident of accident in a most planned manner to show that the Applicant was drunk whereas he had taken liquor in the evening hours very much to the knowledge of the prosecution Agency. Furthermore, he is suffering from various diseases; he is a patient of Hyper tension, sugar and was taken three times to the hospital from judicial custody for treatment of his injured leg.



18. He is a law abiding, peace-loving citizen, enjoying the clean antecedents and any criminal case has never registered against him. Hence, the prayer is made for grant of Regular Bail.

19. ***The State in its Status Report*** has submitted that a PCR Call *vide* DD No. 38A on 09.11.2024, was received at Police Station Shahdara regarding the accident. Head Constable Yogender Singh reached the scene of the incident and found the TSR and the scooty and Car bearing No. UP 14 EQ 8747 on the spot in a damaged condition. He came to know that the injured had already been taken to GTB Hospital. On reaching hospital, he came to know that Bhura Khan was declared '*brought dead*' but Chanchal had major injury on shoulder and her face. Statement of Mr. Vikas Kumar was recorded, who disclosed about the accident. The FIR was accordingly registered.

20. The CCTV footage from near the place of occurrence, has been analysed where the vehicle of the Applicant is seen clearly running away from there. On the basis of the statement of the eye witness and CCTV footage, Section 106 of B.N.S, 2023 has been replaced by Section 105 of B.N.S., 2023.

21. On further investigations, it was found that the offending vehicle was registered in the name of the Applicant. Thereafter, he was apprehended from his house and was found in an inebriated condition and was, therefore, medically examined at GTB Hospital where his blood alcohol content was found to be 274 milligram per 100 milligram. The vehicles were accordingly seized and the Applicant was arrested on 10.11.2024.

22. The Bail Application of the Applicant, is opposed on the ground that the investigation is still pending; the Applicant has not only committed



accident but has hit many innocent people out of whom one has died; that if he is released on bail, he is likely to be committed similar offences and that opinion on MLC of the injured persons, is yet to be received.

23. Submissions heard and the record perused.

24. The Charge-Sheet in the present Case, has already been filed in the Court. According to the case of the Prosecution, the Applicant while driving his Mahindra Car KUV, had hit into the car TSR and scooty and there were two persons, who got injured while one died. Considering the manner of accident, Section 105 of B.N.S., 2023 was substituted in place of Section 106 of B.N.S., 2023.

25. It is also the case of the Prosecution that the car was traced from the CCTV camera and eventually was found to be owned by the Applicant and he was apprehended from the house in the evening when he was found to be under the influence of alcohol. His medical examination was thereafter, got done and there was high alcohol content found in the blood test. Pertinently, the accident had occurred at 11:00 a.m. and the Applicant was found consuming alcohol at his residence in the evening at the time when he was apprehend, which is a significant factor to be considered during the trial of whether he was drunk at the time of the accident.

26. Furthermore, whether it is a case of a road accident wherein so many vehicles were involved and one died or whether it was a case of culpable homicide not amounting to murder, is again dependent upon disputed facts, which can be ascertained only after the trial.

27. The Accused in in judicial custody since 07.11.2024. the investigations are complete. The Charge-Sheet has been filed. There is no custodial interrogation of the Applicant required. He has no previous



criminal history and he belongs to a respectable family. There is no likelihood of his either tampering with the evidence or fleeing the process of law.

28. In the light of all these circumstances, the Applicant is admitted on Regular Bail, on the following conditions:

- (i) The Applicant shall furnish a bail bond in the sum of Rs.35,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court;
- (ii) The Applicant shall appear before the Court as and when the matter is taken up for hearing;
- (iii) The Applicant shall provide mobile number to the Investigating Officer concerned, which shall be kept in working condition;
- (iv) The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses;
- (v) In case of change of the residential address, the same shall be intimated to this Court and in the Police Station, by the Applicant.

29. A copy of the Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court, for compliance.

30. The Bail Application is disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 13, 2025/RS