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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 28.02.2025*+ **BAIL APPLN. 484/2025**

VAIBHAV KUMAR

.....Petitioner

Through: Mr. Gaurav Sharma, Ms.
Sakshi Jha and Ms. Aakanksha
Sharma, Advocates.

versus

STATE THROUGH SHO RAJOURI
GARDEN

.....Respondent

Through: Mr. Manoj Pant, APP for the
State

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J**

1. By way of this bail application preferred under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [hereafter 'BNSS'], the applicant seeks grant of regular bail in case arising out of FIR bearing no. 1525/2014, registered at the Police Station (P.S.) Rajouri Garden, Delhi, for offences punishable under Sections 326A/392/394/397/120B/411/34 of the Indian Penal Code, 1860 [hereafter 'IPC'].

2. Briefly stated, the facts of the present case are that on



23.12.2014, a PCR call was received *vide* DD No. 30B whereby it was informed that an acid attack had taken place in main market of Rajouri Garden, after which, the concerned police official had reached the spot and had found one scooty parked there on which some droplets of chemical were found. In the meanwhile, another information was received *vide* DD No. 33B that the victim Dr. 'A' had been admitted at ESI Hospital, Basai Darapur, Delhi, as she had sustained serious injuries on her face and eye due to acid being thrown at her. Thereafter, the victim was referred to AIIMS Hospital, Delhi for further treatment. Accordingly, the investigating officer had reached the hospital and recorded the statement of the victim/complainant Dr. 'A' who had stated that on the day of incident i.e. 23.12.2014 when she was going to Hospital 'H' where she was working as a Senior Resident Doctor, at about 09:20 AM, when she had reached Main Market, Rajouri Garden, two persons on a motorcycle had snatched her brown colour bag and one of the persons riding the motorcycle had thrown a chemical on her face which had affected her right eye, face and right hand. It was stated that immediately thereafter, she had started feeling burning sensation and when she had started to scream loudly, both the attackers had fled from the spot alongwith her bag. Thereafter, the police had visited the spot again, and had found chemical drops lying on the handle and head lights of the scooty and also on the seat of the scooty and on the ground, which were picked up with the help of the crime team. On the basis of the statement of victim, inspection of the spot



and MLC of the victim, the present FIR was registered under Sections 394/326A/34 of IPC.

3. The first bail application, *Bail Appln. No. 1514/2017*, was dismissed by this Court by way of order dated 04.08.2017. Subsequently, the applicant had moved another bail application before this Court, i.e. *Bail Appln. No. 420/2023*, which was later withdrawn *vide* order dated 20.03.2023. Thereafter, the applicant had preferred a third bail application, *Bail Appln. No. 2527/2023*, which was also dismissed by this Court *vide* judgment dated 04.09.2023, alongwith a direction to the learned Trial Court to conclude the trial within a period of four months. The said observation reads as under:

“i. Directions to the learned Trial Court

32. This Court, however, **expresses its displeasure** that the trial has been prolonged to nine years. Since this Court at this stage cannot comment as to whether it was partially on account of any delay caused on part of the accused, it will serve ends of justice if the seven witnesses which remain to be examined are examined on a **day-to-day basis** and the trial is concluded within **four months**.

33. The learned Trial Court will ensure that this case is taken up on top priority, is taken up on day-to-day basis for recording evidence of the remaining seven witnesses, not grant adjournment to any party. The concerned DCP will ensure that the witnesses appear before the Court on the day they are summoned, which is essential since it is an old case and some of the witnesses may have been transferred from one police station to another and some may have retired. The learned APP concerned will remain present in the Trial Court to examine the witnesses and in case of non-availability of learned APP for the State, the concerned Chief Prosecutor will make necessary arrangements for a substitute APP for the State for examination of the witnesses. The learned defence counsel will not take adjournment for cross-examination of the witnesses. In case the trial is not concluded within four months, the learned defence



counsel will be at liberty to file a fresh bail application before this Court.”

4. Thereafter, the applicant had approached the Hon’ble Supreme Court by filing a *Special Leave Petition (Crl.) No. 518/2024*, seeking regular bail during the pendency of the trial. However, the Hon’ble Supreme Court, *vide* order dated 01.02.2024, had dismissed the said petition, while directing the learned Trial Court to conclude the trial within one month from the said date. The observations of the Hon’ble Supreme Court are set out below:

“The trial has reached an advanced stage. Allegation against the petitioner is causing injury to the victim by throwing acid. We do not think the petitioner is entitled for bail at this stage. Having regard to the direction of the High Court made on 04.09.2023, requesting conclusion of the trial by four months, we are of the view that the Trial Court shall conclude the trial within a month.”

5. The primary grievance of the applicant is that the trial in the present case has not concluded yet, despite the directions issued by this Court and the Hon’ble Supreme Court for its expeditious completion. The applicant has now approached this Court once again, seeking bail by way of the present application.

6. It is averred in the bail application that there is no evidence to substantiate the offences alleged against the present applicant; and the only evidence against him, is his conversation with the co-accused, Ashok Kumar Yadav, which does not establish his complicity in the crime. However, the learned counsel for the



applicant submits, at the outset, that he is not pressing the instant bail application on the merits of the case, but on the ground of delay in conclusion of trial despite there being orders of higher Courts in this regard. The learned counsel for the applicant states that the applicant has been languishing in jail since 26.12.2014, i.e. for more than 10 years, even though he has been falsely implicated in the present case. It is contended that the applicant was arrested when he was only 20 years old, whereas now, he is 31 years old. It is stated that his father had passed away in 2019, and his mother is half-paralyzed, with no one to care for her. It is contended that despite the charge sheet being filed in the year 2017, and the bail application of the applicant being rejected repeatedly by the learned Trial Court, this Court as well as the Hon'ble Supreme Court, the trial still remains incomplete. It is argued that even after directions from this Court and the Hon'ble Supreme Court, the trial has not concluded, and 03 out of 52 prosecution witnesses still remain to be examined, all of whom are formal witnesses. It is further pointed out that since 21.10.2024, the learned Trial Court has been vacant, which has led to further delays. It is also emphasized that the applicant herein was released on interim bail twice and has never misused the liberty granted to him. It is argued that given the prolonged incarceration of the applicant, and the delay in conclusion of trial despite judicial orders and directions, the applicant be granted regular bail, as his continued custody would serve no purpose. Thus, it is prayed that the present bail application be allowed.



7. The learned APP appearing for the State, on the other hand, opposes the present bail application, and contends that the allegations against the applicant are grave and serious in nature. It is submitted that the applicant was not a mere bystander but one of the main conspirators, who had played an active and deliberate role in planning and executing the acid attack on the victim. It is also argued that the applicant was instrumental in hiring juveniles to carry out the attack, procuring the acid, and conducting reconnaissance of the victim's movements, which clearly demonstrates his deep involvement in the conspiracy. Given the heinous nature of the crime, the impact on the victim, and the strong evidence against the applicant, it is argued that delay in trial cannot be the sole ground to seek regular bail. Therefore, it is prayed that the present bail application be dismissed.

8. This Court has **heard** arguments addressed by both learned counsel for the applicant and learned APP for the State, and has perused the material placed on record.

9. As evident from the record, as well as the previous orders passed by this Court rejecting the applicant's bail application, the allegations against the present accused, in brief, are that he had played an active role in the conspiracy hatched by the co-accused, Dr. Ashok, to carry out a premeditated acid attack on the victim, a 30-year-old senior resident doctor working at a Government hospital in Delhi. The attack was allegedly orchestrated as an act of revenge after the victim had rejected Dr. Ashok's marriage proposal and



repelled his advances. The present accused, who used to work as an assistant and compounder to Dr. Ashok, is alleged to have not only been privy to the plan but also actively facilitated its execution. As per the prosecution, he was instrumental in hiring juveniles to commit the offence, coordinating the reconnaissance of the victim's movements, procuring the acid, and even participating in rehearsals of the act using syringes filled with water. Further, he is alleged to have facilitated the communication between the co-accused and the juveniles, ensured the identification of the victim, and assisted in the disposal of items snatched from the victim post-attack. His role, therefore, is not merely that of an accomplice but of an active participant in the entire criminal conspiracy.

10. **Be that as it may**, the learned counsel for the applicant repeatedly stated during the course of arguments, that he was not arguing on the merits of the case, but on the ground of delay in concluding trial, particularly, non-compliance of order for time bound conclusion of trial.

11. In this regard, this Court notes that after carefully considering the gravity of the offence and the nature of evidence available against the present applicant, this Court had dismissed the bail application of the applicant *vide* judgment dated 04.09.2023, but had issued directions for the expeditious completion of the trial within a period of four months. The Hon'ble Supreme Court, taking note of the seriousness of the offence, had also *vide* order dated 01.02.2024 dismissed the applicant's SLP, considering the severity of the



allegations, and had further directed the learned Trial Court to conclude the trial within a period of one month. These orders have already been extracted in the preceding discussion.

12. However, it is unfortunate to note that despite the directions from the Hon'ble Supreme Court and this Court, the trial in the present case has not yet concluded. In view of this fact, this Court, *vide* order dated 11.02.2025, had called for a report from the concerned Trial Court Judge, seeking an explanation for the delay and non-compliance with the orders passed by this Court as well as the Hon'ble Supreme Court.

13. This Court is in receipt of the reply filed by the learned Trial Court in response to the report called for regarding the non-compliance of the orders. The said report mentions that on 04.09.2023, this Court had directed the learned Trial Court to conclude the trial within four months. At that time, the case was pending before the learned Additional Sessions Judge-05 (West), Delhi. However, on 23.09.2023, the matter was transferred to another court, Additional Sessions Judge (Fast Track Court)-01, West, Tis Hazari Courts, Delhi. The report further states that it appears that the concerned Court was not informed about the order dated 04.09.2023, as it was not mentioned in any order-sheet.

14. The report also states that while a few witnesses were examined thereafter, on multiple occasions, the case had to be adjourned due to the non-availability of the learned Public Prosecutor



or the learned counsel for the accused. Subsequently, on 01.02.2024, the Hon'ble Supreme Court directed the learned Trial Court to conclude the trial within one month. However, the report placed on record, indicates that this order was also not shown to the concerned Court of the learned Additional Sessions Judge-01 (Fast Track Court) by the staff. While concluding the report, it has been mentioned that the trial could not be concluded within the stipulated period, apparently because the concerned Court was unaware of the time-bound nature of the matter due to the lack of communication of the orders of this Court and Hon'ble Supreme Court.

15. Furthermore, the report filed on record contains a contradiction, as it states, on one hand, that the order dated 01.02.2024 of the Hon'ble Supreme Court was received by the learned Additional Sessions Judge-05 (West), Tis Hazari Courts, Delhi, on 09.02.2024, and was duly communicated to the learned Additional Sessions Judge (FTC-01), Delhi, on the same date; and on the other hand, it is claimed that the orders of this Court and Hon'ble Supreme Court were not brought to the attention of the concerned Judges, making the matter worse that the order of the Hon'ble Supreme Court stands ignored and without compliance, even after one year of the passing of the said order.

16. This Court observes that in view of the two categorical directions, first by this Court on 04.09.2023 and second by the Hon'ble Supreme Court on 01.02.2024, for concluding the trial in a time-bound manner, the trial should have been concluded by March,



2024. However, the trial has not yet concluded, which is unacceptable, considering that such directions were passed while disposing of the bail application, and the accused has remained in judicial custody for over 10 years. Such a prolonged delay in compliance with judicial directions defeats the very purpose of directing expeditious trial of a case.

17. In the above background, while this Court agrees with the learned counsel for the applicant, that there has been a delay in concluding trial and non-compliance of the orders to conclude trial within the stipulated time, at the same time, the gravity of the offence that the accused had, in a premeditated conspiracy, orchestrated the plan to throw acid on a doctor, who had declined the proposal of another doctor and refused to get married to him, which had led to her face being burnt badly, causing permanent injuries and scars to her face, persuade this Court to decline regular bail to the applicant at this stage, but grant one last opportunity to the prosecution and the learned Trial Court to **conclude trial within one month from date**.

18. The concerned District & Sessions Judge will ensure that the case is assigned to Fast-Track Court for concluding trial within one month from the date of passing of this order. In case, the trial is not concluded within a month, the applicant will be at liberty to move a fresh application for bail, which will be heard and decided by this Court on the ground of delay in concluding trial, and on merit. Thus, the applicant will be at liberty to approach this Court for bail after expiry of one month from date, in case the trial is not concluded.



19. Further, in the circumstances as narrated above, **this Court deems it essential to pass the following directions:**

(i) *Firstly*, in case any direction for expeditious conclusion of trial has been passed by a higher court, and the concerned learned Judge is on long leave or the Court is vacant for a significant period, the Link Court shall immediately bring to the notice of the concerned learned District & Sessions Judge that the matter is time-bound. The District & Sessions Judge shall then take necessary steps to assign the case to another Court to ensure that the directions of either this Court or Hon'ble Supreme Court are complied with in letter and spirit, within the stipulated time. Needless to say, there will be no reason to re-assign the case, in case the court is on leave for a brief period.

(ii) *Secondly*, the order of the higher Court containing issuance of directions for conclusion of trial in a time bound manner must be placed on the first page/cover of the judicial file, and it be mentioned by the Ahlmad in bold letters and red ink, that the matter is time bound and the period by which the trial is to conclude. This will ensure that such orders do not escape the attention of the Trial Court, so that no ground could be taken in future that such an order was not brought to the knowledge of the concerned Trial Court.

20. In view of the aforesaid, this Court is not inclined to grant bail to the applicant at this stage. The present bail application stands



disposed of, with the above directions.

21. The learned Registrar General is requested to forward a copy of this judgment to all the District and Sessions Judges in Delhi, for its circulation among all the judicial officers, and for compliance.

22. A copy of the judgment be also forwarded to the concerned Trial Court as well as District and Sessions Judge, for ensuring conclusion of trial within one month from date.

23. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 28, 2025/A