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

\# **CNR No. DLHC010348812026**

\+ BAIL APPLN. 3081/2026

HABIB UR RAHMAN .....Applicant

Through: Mr. V. Madhukar, Mr. Rakesh Sharma, Ms. Knishka Bhatt, Mr. Neeraj Kumar, Ms. Sakshi B., and Mr. Vikrant Chauhan, Advocates.

versus

STATE THROUGH SHO PS SPECIAL CELL DELHI .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for State with Mr. Narendra Kumar, Advocate for Sate.
SI Habib Khan, ER-1, Crime Branch.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **25.09.2026**

1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeks regular bail in FIR No. 132/2021, registered at Police Station Crime Branch for offences punishable under Sections 3 and 9 of the Official Secrets Act, 1923, read with Sections 409, 201, 380, 381, 457, 120B and 34 of the Indian Penal Code, 1860.

2. The Applicant was arrested on 14th July, 2021. The investigation is complete, the chargesheet has been filed, charges have been framed, and the trial has commenced.

3. In brief, the prosecution alleges that the Applicant was apprehended

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with copies of documents concerning military training, the operationalisation of AFSOD, an Intelligence Summary, and other military material marked confidential or restricted. The Army authorities later verified the documents to be genuine, classified, and sensitive. According to the prosecution, the Applicant was not a passive recipient of these documents but an intermediary between co-accused Naik Clerk Paramjeet Kumar and Rana Muhammad Qasim Zia, stated to be an official of the Pakistan High Commission.

4. Mr. V. Madhukar, counsel for the Applicant, submits that the seriousness of the accusation cannot, by itself, displace the ordinary principles governing bail. Even where an offence carries a substantial maximum sentence, the Court must examine the role attributed to the accused, the material against him, the period of custody, and the progress of the trial. The Applicant has undergone more than three years and four months of actual custody. The investigation concluded long ago, and the evidence relied upon is largely documentary and already in the custody of the prosecution or the Court. The possibility of interference with the evidence is, therefore, said to be remote.

5. Mr. Madhukar further submits that the Applicant remained on interim bail from April 2024 until his surrender on 6th February, 2026, without any allegation that he absconded, approached a witness, or attempted to tamper with the evidence. His jail conduct is satisfactory, and he has a wife, children, and settled roots in society. His physical condition is also relied upon to dispel any apprehension of flight. Although the trial has commenced, only four witnesses are stated to have been examined as per the affidavit of pairokar. The prosecution is said to have sought repeated

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adjournments and, with several witnesses yet to be examined, the trial is unlikely to conclude soon. Mr. Madhukar makes it clear that the Applicant does not invite the Court, at this stage, to assess the alleged inconsistencies or weaknesses in the prosecution case; those matters are reserved for cross-examination and trial. He nonetheless submits that the trial is going to be a prolonged one and the detention at this stage is thus punitive.

6. Considerable emphasis is placed on the Applicant's medical condition. It is submitted that he is unable to walk, is dependent on a wheelchair, and requires assistance with everyday activities. The latest medical report records post-traumatic paraplegia, left upper limb paresis, neurogenic bladder, and several other ailments, for which he remains under the care of different specialist departments. Continued incarceration, viewed alongside the custody already undergone and the pace of the trial, is therefore said to be unjustified.

7. Mr. Yudhvir Singh Chauhan, APP for the State, opposes the application. He submits that the prosecution case cannot be reduced either to the Applicant's possession of certain documents or to the disclosure statements of co-accused persons. The State relies on the recovery of classified military documents from the Applicant and their authentication by the Army authorities; the financial transactions cited in the chargesheet; the procurement of a mobile connection in the name of the Applicant's employee, with the Applicant's number furnished as the alternate contact; the mobile phone and call detail records; and the statement of the Applicant's employee, Mohd. Arif, who is stated to have delivered documents at the Pakistan High Commission on the Applicant's instructions.

8. The Court has considered the rival submissions and examined the

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material placed on record.

9. Neither the invocation of the Official Secrets Act, nor the possibility that an offence under Section 3 may, in the circumstances of the case, attract imprisonment extending to fourteen years is conclusive of the bail application. The gravity of the offence is an important consideration, but it does not relieve the Court of the duty to assess the case on its own facts. An allegation bearing upon national security calls for close scrutiny; it does not place the matter beyond the Court's bail jurisdiction.

10. In ***State v. Captain Jagjit Singh***[1], the Supreme Court identified the familiar considerations governing bail in serious non-bailable offences: the nature and gravity of the accusation, the character of the evidence, circumstances peculiar to the accused, the likelihood of securing his presence at trial, the possibility of witness tampering, and the larger interests of the public and the State. In ***State v. Jaspal Singh Gill***[2], the Supreme Court applied those considerations to an accusation under Section 3 of the Official Secrets Act concerning military affairs and reiterated that such a case demands a greater degree of care. Neither decision lays down an absolute bar to bail. Together, they require a careful appraisal of both the seriousness of the charge and the material supporting it.

11. The gravity of the present case lies not in the statutory label alone, but in the nature of the documents allegedly procured, their asserted source, and their intended destination. The documents recovered from the Applicant are stated to concern military training, a sensitive military unit, and intelligence material. The Army authorities have verified their classified character.

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[1] AIR 1962 SC 253
[2] (1984) 3 SCC 555

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12. The prosecution case extends beyond the recovery itself. Even without relying on the disclosure statements, the State points to material which, according to it, connects the Applicant with the alleged chain of transmission: the subscriber details relating to the SIM card, phone contacts and call detail records, financial transactions, and the statement of Mohd. Arif. The State also relies on the Applicant's alleged access to the Army establishment through his business dealings and his association with co-accused Paramjeet Kumar.

13. At this stage, the Court is not called upon to decide whether these circumstances will ultimately be proved, whether each item of material is admissible, or what weight it may bear during trial. For the present purpose, it is sufficient to note that the case against the Applicant cannot fairly be characterised as resting only on a disclosure statement or an uncorroborated allegation. Any closer examination would risk undertaking the evidentiary assessment that a bail court must avoid.

14. The period of custody has been considered separately. The latest nominal roll records three years, four months, and thirteen days of actual custody as on 18th September, 2026. It also shows that the Applicant remained on interim bail for a substantial period, surrendered on 6th February, 2026, and has maintained satisfactory jail conduct. His compliance with the conditions of interim bail, and the absence of any allegation that he misused that liberty, weigh in his favour and cannot be discounted merely because the charge is grave.

15. The plea of delay also requires careful consideration. ***Union of India***

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v. K.A. Najeeb[3] recognises that statutory restraints on bail do not oust the power of constitutional courts where prolonged detention, coupled with no reasonable prospect of an early trial, results in a violation of Article 21. In ***Javed Gulam Nabi Shaikh v. State of Maharashtra***[4], bail was granted after four years of custody where even charges had not been framed and the prosecution proposed to examine a large number of witnesses. The principle is clear: the seriousness of the charge cannot legitimise detention for an indeterminate period when the trial is unlikely to conclude within a reasonable time. The facts here are materially different. Charges have been framed and prosecution evidence has begun. The assertion that only four witnesses have been examined and that the prosecution has repeatedly sought adjournments is relevant, but the complete Trial Court order sheets are not before this Court, and responsibility for the pace of the proceedings cannot fairly be assigned on the present record. The custody undergone is substantial; at this stage, however, it does not outweigh the *prima facie* assessment of the record noticed above.

16. The Applicant's medical condition has also received close consideration. This is not the first occasion on which it has engaged the attention of the Court. On 23rd January, 2026, after considering the report of a nine-member Medical Board constituted by AIIMS, the Court declined a further extension of interim bail and directed the Applicant to surrender. The Board had noted a significant incongruity between the medical history furnished to it and the objective findings then available.

17. The same order noted that the trial had commenced and granted the

[3] (2021) 3 SCC 713
[4] (2024) 9 SCC 813

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Applicant liberty to seek regular bail if circumstances changed. That liberty required the present application to be considered independently and on its own merits. It did not revive the medical ground already examined, nor did it imply that regular bail would follow merely because the trial had begun.

18. The latest medical report has nonetheless been examined on its own terms. It records that the Applicant is wheelchair dependent, requires assistance with daily activities, suffers from several comorbidities, and is housed in the Medical Intervention Room of the jail dispensary. It further records continuing treatment and follow-up at Safdarjung Hospital, Dr. BSA Hospital, G.B. Pant Hospital, and with other specialists, and describes his general medical condition as sick. These circumstances require consistent and timely medical care. The report does not, however, state that the treatment advised cannot be provided in custody or that continued incarceration is medically incompatible with his present condition. The medical record, therefore, does not by itself justify release on regular bail at this stage.

19. On this cumulative assessment, the Court is not persuaded to grant regular bail at this stage.

20. The application is accordingly dismissed.

21. Having regard to the custody already undergone, the Trial Court shall accord due priority to the matter and endeavour to record the prosecution evidence expeditiously. Unnecessary adjournments shall not be granted to either side.

22. The Jail Superintendent shall ensure that every investigation, specialist consultation, course of physiotherapy, and treatment advised for the Applicant are provided without avoidable delay. Any investigation or

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treatment unavailable within the jail shall be arranged at an appropriate government hospital.

23. The observations in this order are confined to the present bail application. Nothing stated herein shall be construed as an expression on the merits of the prosecution case.

24. Copy of this order be communicated to the concerned Jail Superintendent for necessary information and compliance.

SANJEEV NARULA, J

SEPTEMBER 25, 2026
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