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

CNR No. DLHC010379072026

+ **BAIL APPLN. 3339/2026**

AJAY KUMAR

.....Petitioner

Through: Mr. Shubham Barolia, Advocate (Thr.
VC)

versus

THE STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Naresh Kumar Chahar, APP for
State.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **17.08.2026**

CRL.M.A. 25007/2026 (exemption)

1. Exemptions allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 3339/2026

1. The applicant by way of the present application seeks for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita ('**BNSS**') in connection with FIR NO. 126/2026 for offence under Section 78 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 95 of the Bharatiya Nyaya Sanhita, 2023 ('**BNS**').
2. It is submitted by the learned counsel appearing on behalf of the applicant that the applicant is innocent and has been falsely implicated in the present case.
3. However, *vide* order dated 23.05.2026, the learned ASJ (SC-RC)



Central/ Tis Hazari Courts, Delhi (“**Impugned Order**”) in para nos. 5 & 6, while rejecting the applicant’s anticipatory bail application, has rendered the following findings:

“5. The brief facts of the case are that on 30.03.2026, while on patrolling duty, the police officials became suspicious of the CCL and apprehended him. On his search and interrogation, 23 small packets containing Ganja were allegedly recovered from his possession. During interrogation, he disclosed the name of his father, i.e., the applicant/accused. stating that on his directions, he had been selling Ganja for the last about five months and that the money received from such sales was being handed over to his father/applicant/accused.

6. After hearing the submissions advanced on behalf of both the parties and upon perusal of the application, annexed documents, and the reply filed by the IO, it is observed by the court that the illicit psychotropic substance weighing 70 Grams was found in possession of CCL, who is son of applicant/accused, who had disclosed the name of applicant/accused. Hence, in order to unearth the trail as to source from which said psychotropic substance is procured, the custodial interrogation of applicant/accused is very much required. In the present matter, FIR is registered under Section 78 JJ Act, punishable with RI up to 7 years and u/s. 95 BNS, which is punishable up to minimum three years imprisonment extendable up to 10 years. It further appears from the record that applicant/accused already has previous involvement in cases of Excise Act and even after being on bail in those cases, the applicant/accused has continued to indulge in similar offences.”

4. The principles governing the grant of anticipatory bail have been succinctly and authoritatively settled by the Constitution Bench of the Supreme Court in **Gurbaksh Singh & Ors. v. State of Punjab**,¹ it was held that the power under Section 438 of the Code of Criminal Procedure, 1973 (‘CrPC’) [corresponding Section 482 of BNSS] is an extraordinary discretionary remedy intended to protect personal liberty and is to be exercised on the facts and circumstances of each case.

5. The Supreme Court in **State of Maharashtra & Ors. v. Mohd. Sajid**

¹ (1980) 2 SCC 565.



Hussain Mohd. S. Husain², provided relevant factors for considering the application for grant of anticipatory bail. Paragraph no. 20 is reproduced as under: -

“20. The four factors, which are relevant for considering the application for grant of anticipatory bail, are:

*“(i) the nature and gravity or seriousness of the accusation as apprehended by the applicant;
(ii) the antecedents of the applicant including the fact as to whether he has, on conviction by a court, previously undergone imprisonment for a term in respect of any cognizable offence;
(iii) the likely object of the accusation to humiliate or malign the reputation of the applicant by having him so arrested; and
(iv) the possibility of the applicant, if granted anticipatory bail, fleeing from justice.”*

[Emphasis Supplied]

6. Applying the aforesaid principles to the facts of the present case, this Court finds that, besides his *prima facie* involvement in the commission of the aforesaid offence, he has been previously involved in two other cases; one registered under the Delhi Excise Act, 2009 and another registered under the Arms Act, 1959, thus, the antecedents of the applicant cannot be said to be clean. In view of the aforesaid, the applicant is not entitled to the grant of anticipatory bail.

7. As far as the disability of the applicant is concerned, the same can be considered as a factor while considering his application for regular bail.

8. With the aforesaid observations, the application stands dismissed.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 17, 2026

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² (2008) 1 SCC 213.