

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. No.1862/2020 and CrI.M.A. No. 9829/2020**

Order reserved on :10.09.2020& 23.09.2021
Date of decision : 12.10.2021

GAURAV GOYAL

....Petitioner

Through: Mr.N.Hariharan, Sr. Advocate
with Mr.KapilSankhla
Advocate.

Versus

STATE OF GNCT, DELHI

....Respondent

Through: Mr.Ashok Kumar Garg, APP
for State with SI Kuldeep
Yadav.
Mr.Siddharth Nath, Advocate
for SanskritiSchool.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

ANU MALHOTRA, J.

1. The applicant vide the present application seeks the grant of anticipatory bail under Section 438 of the Cr.P.C., 1973 in relation to FIR No. 10/2020 dated 18.2.2020 Police Station Chanakya Puri registered under Sections 419/420/468/471/120B/34 of the IPC, 1860 submitting to the effect that he has been falsely implicated in the instant case in as much as he dared to dream that his children study in prestigious schools.

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2. The FIR in question, as per the status report dated 27.8.2020 submitted under the signatures of Inspector Ugesh Kumar, SHO, Police Station Chanakyapuri, is stated to have been registered on the complaint of Sh.Vinod Kumar on behalf of the Sanskriti School alleging to the effect that the applicant herein had illegally changed his son's name Tanmay to Krish and also changed his father's name as Kapil Kumar R/o A-159, Block S-117, Railway Colony, Sanjay Camp, Chanakyapuri, New Delhi and got his child Krish admitted in the Nursery class at Sanskriti School, Chanakyapuri, New Delhi, in the EWS quota on 25.3.2019 in terms of the order dated 28.2.2019 of the Directorate of Education, New Delhi.

3. It was submitted through the status report that on various occasions the child had objected to be addressed as Krish in the class at Sanskriti School and instead he insisted that everyone call him Tanmay and further stated that his father's name is Gaurav Goyal and his mother's name is Nidhi Goyal. It has been submitted through the status report that the photograph of the child on the Sanskriti School, Chanakyapuri, Almanac (2019-2020) mentioned the name of the pupil as being Krish which is similar to the Nursery application form (2018-2019) of the Sanskriti School, Chanakyapuri, New Delhi in the name of the student Tanmay which was submitted by the applicant Gaurav Goyal. It has further been submitted through the status report that during the course of investigation conducted, the accused named Nitin Sharma s/o Hari Narayan Sharma, R/o 4/1982/25 A, Gali No. 16, Pandav Road, Bhola Nath Nagar, Shahdara, Delhi had disclosed in his disclosure statement that he regularly picked up the child from the

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Sanskriti School, Chanakyapuri, New Delhi on Bike No.DL 1S AA 8989 and then he used to take the child to some distance to a car bearing No. DL8C AT 4895 (SKODA) and DL 1 CT 9127 (i20) and used to pick up the child and drop him to his house at 19C/20, Jawahar Nagar, Malkaganj Chowk, Bunglow Road, Delhi which belongs to the applicant herein, Gaurav Goyal.

4. It was further submitted through the status report that the accused Nitin Sharma had further disclosed in his disclosure statement that he was working for Gaurav Goyal, the applicant herein, and if he disclosed the facts to the Sanskriti School Administration, he might be thrown out of his job. The status report indicates that the bike in question was recovered at the instance of the accused Nitin Sharma which was found parked in front of Gaurav Goyal's house at 19C/20, Jawahar Nagar, Malkaganj Chowk, Bunglow Road, Delhi. The cars mentioned by the accused Nitin Sharma in his disclosure statement were also identified by the accused Nitin Sharma which were found locked and parked in front of the applicant Gaurav Goyal's house. The charge sheet against the accused Nitin Sharma is indicated to have been filed on 17.4.2020 and as per the status report the said accused was in judicial custody.

5. As per the status report, the residence of the applicant Gaurav Goyal at 19C/20, Jawahar Nagar, Malkaganj Chowk, Bunglow Road, Delhi was found locked and notices under Section 41A of the Cr.P.C., 1973 to join the investigation on 23.02.2020 and 06.3.2020 were pasted at the main gate of his above said house and a notice under Section 91 of the Cr.P.C., 1973, was also pasted at the main entrance

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door of the applicant/Gaurav Goyal's residence to produce the vehicles in question along with the documents on 23.3.2020 but the applicant did not join the investigation and rather his counsel sent a reply dated 24.2.2020 submitting that the applicant/Gaurav Goyal was out of station for some business purposes and would join the investigation on arrival and further requested for 10 days' time. As per the status report, the applicant herein/Gaurav Goyal did not join the investigation even after 10 days and thus, the NBWs were issued by the learned Metropolitan Magistrate on 11.3.2020 for 19.3.2020 but during this time the normal functioning of the Court was suspended due to complete lockdown and due to the Pandemic COVID 19, and thus the permission for proceedings under Section 82 of the Cr.P.C., 1973, could not be initiated.

6. As per the said status report, a notice dated 27.6.2020 was pasted at the main entrance door of the applicant/Gaurav Goyal's house to join the investigation and to produce the vehicle No. DL 8 CAT 4895 belonging to the applicant herein, Gaurav Goyal, which used to pick and drop the child from the school to his house.

7. As per the status report the applicant joined the investigation on 28.6.2020 and produced his vehicle aforementioned which was then released on superdari but as per the status report the applicant did not cooperate in the investigation during interrogation. The applicant is stated to have stated that his son Tanmay is studying in Class I at the DPS, Mathura Road, New Delhi, which was verified from the said school and as per the records, no child in the name of Tanmay S/o Gaurav Goyal was admitted in the year 2019 in the pre-school class as

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per the reply dated 30.6.2020 of the Delhi Public School, Mathura Road. The State thus submitted through the status report that the applicant was knowingly not disclosing the facts and was deceiving the investigation and thus his custodial interrogation was required to find out the whereabouts of the co-accused Kapil Kumar, Baby Devi as well as the source of forged and fabricated documents involved in the case and the other persons involved in the instant case.

8. Through the status report it has further been submitted that a similar FIR No. 15/18 under Sections 420/468/471/120B of the IPC, 1860, Police Station Chanakyapuri is pending trial against the applicant and others who are on bail for getting admission of the elder child of the applicant named Subhash Goyal whose name was changed to Singham Goyal in the EWS quota vide Directorate of Education in terms of order dated 13.2.2013 and that the applicant is also involved in case FIR No. 177/2005 under Sections 323/341/34 of the IPC, 1860 Police Station Model Town, Delhi.

9. Through the status report it has further been submitted that due to the forged admission of the son of the petitioner, an actual EWS category student was deprived from getting admission to the Sanskriti School, Chanakyapuri, New Delhi.

10. **It was further submitted through the status report that a reply dated 10.8.2020 was received from DPS, Mathura Road, Delhi in continuation of the previous letter No. MR/MO/EWS dated 30.06.2020 stating that due to the outbreak of COVID 19 and the lockdown period, the school had no record of Tanmay Goyal under the EWS category and the address of the student**

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mentioned in the letter was not found as per the school record on the ERP system(Enterprise Resource Planning) but on physical checking of the records, the details of Tanmay Goyal Admission No. 19169 S/o Mr.Gaurav Goyal &Mrs.Nidhi Goyal were to the effect:-

“1.Tanmay was admitted in the General Category(i.e. Full Fee paying student), Delhi Public School, Mathura Road on 28.02.2019. Original

2. Registration Form, duly signed by both the parents.

3. Copies of Aadhar Card of the student along with his parent as residence proof is also attached.

4. As per external memos dated 25.04.2019,06.05.2019 and 09.07.2019 issued to the parent, the student had not attended the school since 16.04.2019. As per the attendance register Tanmay attended school for two working days only i.e. 05.04.2019 & 15.04.2019 during the academic session 2019-2020.

5. A Show Cause Notice was issued to the parent of Master Tanmay Goyal Class Prep A videDPS/Rec/Adm/19169/51 dated 21.02.2020through speed post and the same was returned on26.02.2020 with the remarks left address from the postal service.

6. A request letter of Mr. Gaurav Goyal F /O Tanmay Goyal to the Principal was received on 06.08.2020 requesting to readmit the child as his name was struck off due non -payment of fee and long absenteeism. Hence, the child was readmitted after clearing the school fee. In a while the school authorities came to know that the above mention parent was involved in the

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criminal case and had admitted his child in. EWS category in Sanskriti School Hence, the fee was reversed to the parent on 07.08.2020 and a Show Cause Notice was issued to the parents on 10.08.2020.”

11. As per the status report, the photograph pasted on the registration form received from the DPS, Mathura Road, Delhi for the academic session 2019-2020 is similar to the photograph on the Nursery Application Form of the Sanskriti School 2018-2019 and both were signed by the parent Gaurav Goyal.

12. Through the status report it was submitted that the applicant had approached the DPS, Mathura Road, for continuing admission of his son Tanmay Goyal on 7.8.2020 just before the matter was taken up before this Court and that a copy of the attendance sheet of Master Krish from the Sanskriti School was also obtained for the academic session 2019-2020 and that the attendance sheet of both the schools for the month of April 2019 was compared and it was found that Master Tanmay Goyal/Krish attended the DPS, Mathura Road on 5.4.2019 and 15.4.2019 whereas he started attending the Sanskriti School from 16.4.2019 onwards.

13. The complainant through its written submissions dated 23.8.2020 has inter alia submitted in support of the averments made in the FIR to the effect that during the course of the attendance of the child Master Krish Kumar s/o Kapil Kumar and Baby Devi studying in Nursery standard under the EWS category for the academic session 2019-2020 it had become clear that the child attending the school as

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Master Krish Kumar was in fact Master Tanmay Goyal son of the applicant herein and Mrs.Nidhi Goyal and that it was also brought out that the applicant was at the centre of the criminal conspiracy to obtain admission in the name of Master Krish Kumar for his son, Master Tanmay Goyal.

14. It is further submitted through the written submissions that the complainant school has stated in the F.I.R. (annexed to the bail petition as Annexure A-1 @ page 39) that the School administration became suspicious after the child in question objected to being addressed as Krish Kumar, and informed teachers that his name was Tanmay Goyal and his parents' names were Gaurav and Nidhi Goyal. It is further submitted that further suspicious circumstances were noticed, inasmuch as the child was dropped to and collected from the school by one Mr. Nitin Sharma who identified himself as Master Krish Kumar's neighbour and well-wisher. He also stated that Master Krish Kumar is staying with his grandparents at Gulabi Bagh. However, after picking up the child Mr. Sharma walked some distance before the child entered cars bearing registration numbers DL 8C AT 4895 and DL 1 C T 9127. Both of these cars have been recovered from the residence of the present applicant, one of which is registered in his own name and another in his father's name. The applicant has failed to offer any explanation regarding the usage of his cars to pick up a child he is purportedly unaware of.

15. Inter alia, the complainant submitted that the application of the co-accused Mr.Nitin Sharma has been dismissed by the trial Court and it had been stated by Nitin Sharma that he had been coerced by the

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applicant Gaurav Goyal into stating incorrect facts to the school administration for fear of losing his job. The complainant has further submitted that the applicant had applied to the complainant School for the admission of his child Tanmay Goyal for the academic session 2018-2019 and the said application form with photographs of the child are annexed at page 7 of the status report dated 6.8.2020 and the comparison of this photograph with the photograph of the child actually attending school as Krish in the school almanac available at page 8 of the status report dated 6.8.2020 would make it evident that these two photographs are of the same child for whom the application was made as Tanmay Goyal in 2018-19 and Krishin 2019-20.

16. The complainant has further submitted that the applicant has repeatedly stated that the FIR is an outcome of a rivalry and that the complainant school has some personal enmity with the applicant but that the complainant school is a very well reputed institution and has no personal rivalry with any of the parents and moreover the FIR clearly states that the teachers reported the child stating his name as Master Tanmay Goyal and it cannot be suggested that every such teacher has a personal enmity with the applicant leading to false allegations.

17. Inter alia, the complainant had submitted that the applicant has laid misplaced reliance on the ongoing trial regarding his elder child Singham Goyal initiated by the complainant school which has no relevance to the present matter and the truth behind those allegedly falsified documents would only be revealed at the conclusion of the trial. The complainant has further submitted that the complainant

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which the school had informed of the discrepancies in the documents submitted at the time of admission to the Directorate of Education vide a letter dated 8.8.2019 and vide response dated 7.8.2020, the Directorate of Education has instructed the complainant school to inform the police and the revenue department. The complainant school through its Principal has corroborated the version of the State that custodial interrogation of the applicant is required to unearth the facts surrounding the stated criminal conspiracy placing reliance on the verdict of the Hon'ble Supreme Court in ***State V. Anil Sharma***, (1997) 7 SCC 187 with observations therein to the effect:

"We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

18. Inter alia, the complainant school submits that the release of the applicant on bail would gravely increase the chances of his absconding

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and influencing the crucial witnesses and that the applicant has repeatedly showed disregard for the process of law and submitted vague claims about being in Mussorie and his child studying in DPS Mathura Road, and that he does not deserve the equitable relief of anticipatory bail.

19. The applicant herein through his written submissions dated 27.8.2020 has reiterated the averments made in the application itself under Section 438 of the Cr.P.C., 1973, submitting that he apprehends the arrest on the basis of the false and concocted FIR registered at the behest of the complainant as a counter blast to protections granted by this Court in various petitions. The applicant submits that the complainant having failed to throw his elder child Singham Goyal from its school due to the protection granted by this Court has resorted to filing false FIRs against him as a pressure tactic. The applicant submits that he and his children belonged to the EWS category and by sheer dint of determination the applicant managed to get admission for his son in the complainant Sanskriti School which the applicant submits is run pre-dominantly by IAS Officers and their wives and according to the applicant caters to their children and that the applicant realized that the EWS category admissions are carefully controlled to give admissions to the references of IAS officers, their servants and helpers as a consequence of which the complainant school has put many roadblocks in the admission of the applicant's child.

20. The applicant had further submitted that the applicant had filed Writ Petition No. 1372/2018 before this Court challenging the

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arbitrary decision of the complainant school of not granting admission to Master Tanmay the younger son of the applicant and vide judgment dated 21.2.2018, this Court had allowed the petition.

21. The applicant has further submitted that after this order dated 21.2.2018 whereby it was directed to the effect:-

“23. The Writ Petition is accordingly allowed with the direction to Respondent No.1 to allocate 30 points to the Petitioner as per the point based system by considering the distance criteria noted hereinabove and also allot him 25 points on account of his sibling studying in the same school. It is needless to say that the admission of the Petitioner would be subject to the parents submitting original documents and in case any information provided by the petitioner is found to be incorrect or any infirmity is found in the submitted documents, it would be open to Respondent No.1/School to cancel the admission of the Petitioner. Keeping in view the contentions raised by Respondent No.1 regarding the documents submitted by the Petitioner's parents at the time of seeking admission of the Petitioner's sibling it is further directed that in case, for any reason, the said admission is cancelled, the 25 points allotted to the Petitioner would also be liable to be withdrawn and the admission of the Petitioner would also be liable to be cancelled. It is however, made clear that this court is not expressing any opinion on the right, if any, of Respondent No. 1 to cancel the admission of the petitioner's sibling after following due procedure as per law.”,

submitting to the effect that after this order, the complainant school started demanding various irrelevant documents from the applicant and started raising issues on the documents supplied and even after the order of this Court, the complainant school rejected the admission of the younger son of the applicant on hyper technical and absurd reasons

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and thus the applicant was again constrained to knock the doors of justice and filed Civil Writ Petition bearing No. 2532/2018 before this Court challenging the rejection of the admission and vide order dated 16.3.2018 a stay was granted in favour of the petitioner and it was ordered that one seat be reserved for the petitioner in the complainant Sanskriti School and the matter was posted for 4.4.2018 granting 10 days to the complainant school to file the counter affidavit.

22. The applicant submits that in retaliation to this order in favour of the applicant's minor son and to create pressure on the applicant for withdrawing the writ petition, the complainant school instead filed a false and frivolous complaint in Police Station Chanakyapuri culminating in the FIR No. 15/2018 on the same day and despite directions the complainant did not file the counter affidavit and sought time on 4.4.2020 and this was done to circumvent the orders of this Court and on the very next date i.e., 5.4.2020 the applicant was arrested by Police Station Chanakyapuri in that FIR and the complainant was successful in its nefarious designs as the applicant was constrained to withdraw the W.P.(C) No. 2532/2018 under pressure despite the order dated 16.3.2018 in his favour. The applicant submits that he was released on bail on 27.4.2018 but after release from custody was shocked to discover that an order dated 31.3.2018 had been passed by the Directorate of Education whereby the admission of Master Singham, the elder son of the applicant was cancelled by the Directorate of Education and the school i.e., the Sanskriti School and the said order was challenged before this Court in W.P.(C) No. 6572/2018 which was allowed by this Court vide order

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dated 2.7.2018 and the respondent to that petition were directed to permit Master Singham to attend the classes from the respondent No.2 school forthwith with liberty however being granted to the respondents to take appropriate action in accordance with law, in as much as the cancellation of admission of Master Singham Goyal, the elder son of the petitioner with the Sanskriti School without affording him any opportunity to set up his version of defence and without affording him an opportunity to correct or to controvert any evidence in the possession of the official respondents was held to be in violation of the basic rules of justice and fair play.

23. It has been submitted by the petitioner through the petition that pursuant to this order, the Directorate of Education issued another show cause dated 20.7.2018 and the applicant herein had given separate representations to the Directorate of Education but the Directorate of Education with a preconceived mind passed the final order dated 13.8.2018 cancelling the admission of Master Singham Goyal and the said two orders dated 20.7.2018 and 13.8.2018 were challenged before this Court in WP(C) No. 8791/2018 and vide order dated 7.1.2019 this Court allowed the said WP(C) No. 8791/2018 and reinstated the admission of Master Singham Goyal.

24. A perusal of the order dated 7.1.2019 of this Court in W.P.(C) No. 8791/2018 indicates that that the petition was allowed to the extent as directed therein setting aside the impugned orders of the Directorate of Education dated 20.7.2018 and 13.8.2018 with the restoration of the admission of Singham Goyal in the school. though it was also observed therein to the effect that the Directorate of

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Education chose to revisit the said issue in relation to the allegations against the petitioner's father qua the manner in which the admission of the petitioner, i.e., Master Singham Goyal in the EWS category was secured the Directorate of Education would proceed in accordance with the observations and findings recorded and contained in the judgment dated 7.1.2019 in W.P.(C) No. 8791/2020 with all contentions of the parties to remain open with the rights of the petitioner or his father to re-agitate any grievance which might survive in the event of any decision on the part of the Directorate of Education adverse to the interests of the petitioner would also remain reserved.

25. The applicant has further submitted that the complainant school thereafter misused its position of power and lodged a fresh FIR No. 10/2020 at Police Station Chanakyapuri for alleged offences punishable under Sections 420/468/471 r/w Section 120B of the IPC, 1860 and Sections 419 and Section 34 of the IPC, 1860 having been subsequently added in relation to which the instant anticipatory bail application has been filed.

26. The applicant submits that he was granted interim protection vide order dated 26.3.2020 till the date 16.4.2020 vide order dated 10.7.2020 of the learned Additional Sessions Judge-04, New Delhi. However, the anticipatory bail application was declined with it having been observed to the effect:-

“vii) A perusal of the record indicates that applicant is the main conspirator of the case crime; hatched a criminal conspiracy by fabricating and forging documents to usurp a seat of EWS category by defeating the intent and object of Right of Education Act, 2009. The offences alleged

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against him are serious in nature and cannot be taken lightly. All the persons involved into the case crime qua their specific role, how and from where the documents were prepared, and who all were involved and participated into the ill-design of the applicant/accused needs to be thoroughly investigated. Thus, taking note of the facts and circumstances of the case, taking note of the conduct of the applicant, nature of the offence and the accusations against the applicant, it is a fit case, in my opinion, where the custodial interrogation of the applicant/accused is expedient, in the interest of justice to unearth the true facts and the persons involved into the alleged offence.”

27. The applicant has further submitted that he is wholly innocent and has been falsely implicated in the present FIR by the complainant as a counter blast to punish the applicant for seeking protection against the conduct and acts of the complainant and that the FIR itself is vague and filled with conjectures and surmises and that the complainant has not been able to link the applicant with Mr.Kapil Kumar or Mr. Nitin Sharma and resorted to making unnecessary conjectures merely on the basis of the car belonging to the applicant. The applicant further submitted that the applicant has been dragged into the present FIR only to malign his reputation and disrupt his sons education as he worked as a whistle blower for raising the issues that were not meant to be touched as they would expose a lot of high end bureaucrats and insiders who are mismanaging the entire admission process in the esteemed educational institution.

28. The applicant has further submitted that the learned Additional Sessions Judge vide order dated 7.10.2020 had failed to appreciate the fact that the complainant has cooked up a false, fabricated and

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baseless story which does not have any basis and the applicant has been roped into the FIR without any rhyme and reason and the applicant further submitted that the complainant school had made an attempt to settle the scores with the applicant by implicating the applicant in the present FIR in order to save themselves from getting exposed for the illegalities being committed by the complainant, i.e., the management of the school. The applicant further submits that the learned ASJ had failed to appreciate the fact that the entire case revolves around four individuals i.e., Kapil Kumar, Baby Devi, Nitin Sharma and Mala Sharma and that the applicant has nothing to do with them and according to the FIR they are the parents and guardians of Master Krish respectively. The applicant further submits that the learned ASJ had failed to appreciate the fact that the entire FIR is silent about any direct or indirect involvement of the applicant in the entire admission process of Master Krish.

29. The applicant further submitted that the investigation has been conducted without any verification/clarification qua Kapil Kumar, Baby Devi, Nitin Sharma and Mala Sharma and that all the relevant documentary evidence is already with the Investigating Officer as the complainant had handed over the enrolment for Master Krish Kumar with a photograph, registration form of Master Tanmay Goyal with a photograph, written statement of Mrs. Mala Sharma, School almanac of Master Krish Kumar, Election ID card for Nitin Sharma, Aadhar card of Nitin Sharma, Aadhar Card of Mrs. Mala Sharma, Aadhar Card of Mr.Kapil Kumar, Aadhar card of Master Tanmay Goyal, Revenue Department certificate of Mr.Kapil Kumar, FIR no. 15/2018,

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Affidavit of Mr.Kapil Kumar dated 6.3.2019, photograph of the child attending school, Screenshots of car registration details, Sanskriti School form for parent details for Master Krish Kumar, DoE registration form for Master Krish Kumar, Tracking report of Show Cause Notice dated 18.12.2019 sent to Mr. Nitin Sharma, copies of undelivered envelopes addressed to Mr.Kapil Kumar, with India Post remarks to the Duty Officer Police Station Chanakyapuri and that the applicant had handed over the vehicle bearing No. DL 8C AT 4895 and its documents as sought by the Investigating Officer.

30. The applicant further submits that the complainant without any rhyme or reason is trying to create confusion on the basis of mismatch in the details of Master Krish who is a student in the complainant's school; whereas the entire confusion is based on whims and surmises of the complainant and thus under the facts and circumstances of the matter the alleged offences cannot be attributed to have been done by the applicant / accused.

31. The applicant has further submitted to the effect that vide order dated 10.07.2020 the Ld. ASJ, had failed to appreciate the fact that the case of the complainant is based on vindictive intention for the reason that the elder son of the applicant who is the student in the same school was sought to be thrown out on the allegations of certain irregularities in the documents submitted for the admission in the EWS category, and that the complainant could not succeed in their nefarious designs as the applicant approached this Court vide writ petitions filed by the applicant under the right to education.

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32. Inter alia, the applicant submitted that all the documents that had been submitted at the time of admission of his elder son are genuine and a false and fabricated FIR bearing No.15/2018 was registered as the same are issued by the concerned government department and the documents have till date not been proved otherwise. The applicant further submitted that he is ready and willing to join the investigation as and when required by the State and that the matter relates to documentary evidence which has already been handed over to the Investigating Agency and that the applicant has no intention to abscond or evade the trial and has clear antecedents and would join the investigation immediately and thus seeks the protection of the Court and undertakes not to tamper with the evidence or the witnesses in any manner and shall comply with all the conditions, if any, imposed.

33. Vide order dated 24.7.2020, when the application was first taken up for hearing it was submitted on behalf of the applicant that the allegations levelled against the applicant were wholly false and the FIR had been lodged in relation to admission sought and granted by the Sanskriti School of a minor child Krish Kumar with false averments against the applicant who had submitted that the minor child Krish Kumar is not his child. The applicant vide order dated 24.7.2020 was granted protection from the arrest till the next date of hearing i.e., 7.8.2020 subject to the terms and conditions as imposed thereby. The documents were sought to be submitted on behalf of the petitioner to refute the observations made in the status report in relation to the minor child Tanmay Goyal as was submitted during the

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proceedings dated 7.8.2020 which were permitted to be so filed with copies thereof being also supplied to the learned counsel appearing to the Sanskriti School with direction to the State also to verify all the documents that were filed by the petitioner with the matter having been re-notified for the date 28.8.2020 with the interims orders dated 24.7.2020 having been directed to continue.

34. The status report was submitted by the State through mail and during the course of submissions that were made on behalf of either side, in as much as the contentions that have been raised against the applicant to the effect that he got the minor child Krish admitted to the Sanskriti School with false averments with the contention of the petitioner being to the effect that the minor child Krish is not his child and that the name of his child is Tanmay, with it having been submitted through the status report dated 27.8.2020 under the signatures of the SHO Police Station Chanakya Puri wherein it had been submitted to the effect that the photograph pasted on the registration form received from the DPS school, Mathura Road for the session 2019-20 is similar to the photograph of the Nursery application form of the Sanskriti School for the session 2018-19 and both are signed by the parent Gaurav Goyal which photographs on the said documents were refuted on behalf of the petitioner, i.e., the applicant herein being of the same child, it was considered essential by the Court that the minor child Tanmay Goyal be produced by the petitioner on the next date of hearing through Video Conferencing and it was informed on behalf of the petitioner that the minor child Tanmay was with his mother at Rajasthan and that the counsel for the

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petitioner would inform for the production of the minor child through Video Conferencing and it was also directed that the minor child Krish Kumar be also produced by the Investigating Officer on the next date of hearing through videoconferencing with the matter being re-notified for the date 7.9.2020 with directions that the interim order dated 24.7.2020 would continue.

35. The matter was thereafter taken on 1.9.2020 and the date 7.9.2020 was cancelled with the matter having been re-notified for 10.9.2020 with the directions that the interim would continue. The order dated 10.9.2020 indicates that the minor child Tanmay was produced by his mother Nidhi Goyal through Video Conferencing and the child in reply to specific Court queries stated that his name is Tanmay Goyal and that he does not study in any school now and that he had studied in the DPS School and that he lives at his Nani's house and had given some name of that place as being Surajgarh. The child on being asked vide the Court query as to where was the DPS School and whether the school was in Delhi had affirmed the same. In view of the status report dated 6.8.2020 submitted under the signatures of the SHO Police Station Chanakyapuri and the documents placed on record at page 7 thereof and the minor child produced before the Court, it was considered essential by the Court that the recording of the production of the child before this Court be preserved and was directed to be preserved till further directions with the directions to the learned Registrar General of this Court to ensure that the recording of the proceedings in the present matter of the interaction of the minor child are not deleted in any circumstances whatsoever and that the

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interim order dated 24.7.2020 was extended till the pronouncement of orders.

36. The matter was taken up thereafter on 25.8.2021 when the Court perused the video recording that had been preserved in terms of the order dated 10.9.2020 and it was found that though the same contained the record of the proceedings as conducted on the said date, however, the minor child was not visible in the same. As it appeared that the appearance of the minor child appeared to have not been inadvertently recorded though the entire video conferencing was conducted on the date 10.9.2020 brought out that the child was produced and that the undersigned had even asked for the removal of the child when the arguments were addressed by the learned Additional Public Prosecutor for the State so that the minor child could not hear the same. In as much as vide order dated 28.8.2020 and 10.9.2020 it had been considered essential that the minor child Tanmay was produced, it was directed that the minor child Tanmay be produced once again on 23.9.2021 through video conferencing at 4 p.m.

37. The minor child Tanmay Goyal was thus produced by his mother Nidhi Goyal through video conferencing on 23.9.2021 and the video conferencing was recorded. The printout of the video recording qua the production of the minor child Tanmay Goyal produced on the date 23.9.2021 has been placed on record.

38. The Nursery application Form for the year 2018-19 submitted to the Sanskriti School by Mr.Gaurav Goyal and Mrs.Nidhi Goyal, parents of the said child, for admission bears the photograph of the

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child Tanmay Goyal, which child therein substantially appears to be similar to the child produced before this Court on 23.9.2021 through video conferencing.

39. Taking into account the factum that the photographs at page 7 in the Nursery Application Form 2018-19 submitted to the Sanskriti School for admission of Tanmay Goyal did not appear to be identical to the photograph of the child who was shown to have been admitted as per the Almanac 2019-20 of the Sanskriti School of the child named Krish Kumar with parentage being Kapil Kumar as the father did not appear to be identical with the photograph of the minor child Tanmay Goyal qua whom the Nursery Application Form 2018-19 that was submitted to the Sanskriti School. The Court had vide order dated 28.8.2020 directed the production of the minor child Tanmay who was stated to be at Rajasthan to be produced through video conferencing and the Investigating Officer was also directed to produce the minor child Krish through video conferencing.

40. Though the minor child Tanmay was produced on 10.9.2020 through video conferencing by his mother Nidhi Goyal, no child of the name of Krish was produced by the Investigating Officer.

41. Apparently, the contention of the State is to the effect that the minor child Krish and the minor child Tanmay are the same but as observed herein above, the photograph at page 7 of the status report dated 6.8.2020 submitted by the State as that of Tanmay Goyal of the Nursery Application Form 2018-19 and the photograph of the child Krish in the Almanac 2019-20 of the Sanskriti School do not appear *prima facie* identical and furthermore the printout of the photographs

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of the child produced through video conferencing as being Tanmay Goyal on 23.9.2021, prima facie, appears to be similar to the child Tanmay Goyal qua whom the Nursery Application Form 2018-19 to the Sanskriti School has been placed on record in the status report dated 6.8.2020.

42. Furthermore, the photograph of the minor child Krish Kumar in the Enrolment Form to the Sanskriti School also bears the photograph of the child which enrolment form is dated 25.3.2019.

43. Without any observations on the merits or demerits of the trial that would take place, on a perusal of the photograph of the minor child Krish placed on the enrolment form submitted to the Sanskriti School dated 25.3.2019 for admission to the Nursery class with the parentage shown of the father's name as Kapil Kumar, and the Registration Form of the child for the session 2019-20 shown as Tanmay Goyal to the Delhi Public School with his parentage shown as to be Gaurav Goyal, the present applicant and Mrs. Nidhi Goyal, his mother, and the Nursery Application Form of the year 2018-19 for admission of Tanmay with parentage with the parentage shown as his father being Gaurav Goyal and mother being Mrs. Nidhi Goyal, showing also vide the said form for admission to the year for the Nursery admission 2018-19 showing also that there was a sibling of the child Singham Goyal with admission No. 6591 then studying in Class 3-D of the Sanskriti School and on a comparison with the printout of the child Tanmay Goyal produced during the video conferencing on the date 23.9.2021, this Court is of the considered view that the photograph of the child Krish on the Enrolment Form to

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the Sanskriti School dated 25.3.2019 and photograph of the child Krish in the Almanac 2019-20 of the Sanskriti School, though appeared to be of the same child, the photograph of the child as Tanmay Goyal in the Enrolment Form of the Sanskriti School as well as the photographs on the Registration Form of Tanmay Goyal in DPS School, though the photograph of the child Tanmay Goyal of the two schools appear to be of the same child and also similar to the child produced through video conferencing on the date 23.9.2021, the photograph of the child Krish in the Enrolment Form dated 25.3.2019 and the photographs of the child Krish in the Almanac for the year 2019-20 of the Sanskriti School do not appear, *prima facie*, identical to the child Tanmay produced through video conferencing.

44. Reliance was placed on behalf of the complainant on the verdict of this Court in ***Tanisha Rani Sharma V. State (NCT of Delhi)***; IV (2016) DLT (CRL.) 161, to contend to the effect that the anticipatory bail be not granted to the applicant. The same, in the facts and circumstances of the case, is wholly misplaced.

45. In the circumstances, the aspect as to whether or not there has been any offence punishable under Sections 419/420/468/471/120B of the Indian Penal Code, 1860, by the applicant is wholly a matter of trial.

46. There is nothing to indicate that the applicant shall flee from justice in a capacity to influence the prosecution witnesses. In these circumstances, the applicant, in the event of arrest is allowed to be released on bail on his furnishing a personal bond in the sum of

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Rs.1,00,000/- with one surety in the like amount to the satisfaction of the Trial Court with the directions that the applicant shall:

- not leave the country;
- appear before the Trial Court as and when required and;
- keep his mobile phone on at all times and dropping a pin on the Google map to ensure that his location is available to the Investigating Officer.

47. The application is disposed of accordingly.

ANU MALHOTRA, J.

OCTOBER 12, 2021
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