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

% ***Date of decision: July 21, 2023***

+ **BAIL APPLN. 2151/2023**

MOHD FURQAN SHEIKH

..... Applicant

Through: Mr. Haneef Mohammad, Mr. S. Islam, Mr. Mubashshir Jawaid Siddiqui and Mohd. Maroaf, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Mukesh Kumar, APP for the State

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. This is an application filed by the applicant seeking grant of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in an e-FIR No.8028/2023 under Sections 379 of the Indian Penal Code, 1860 at P.S. e-Police Station (Bhajan Pura, North East), Crime Branch, Delhi.
2. Learned counsel for the applicant submits that neither the applicant is named in the FIR nor is he connected to the present case. Rather his name only finds mentioned in the disclosure statement made by the co-accused @Nazir.
3. Notice was issued and the Status Report was called for.



4. Learned APP for the State/ respondent has handed over the Status Report during the course of the hearing, which has been filed today vide Diary No. 1226762. As per the Status Report, there are 10 more FIRs in addition to the present FIR, out of which 9 FIRs have been registered under same Sections i.e., 379/411 IPC as the present one against the applicant. It is stated that all the 11 FIRs including the present one are pending trial and all these FIRs have been registered between the years 2015 and 2023.

5. Learned APP for the State submits that the issue involves theft of vehicles, which requires custodial interrogation to unearth the conspiracy between the accused and other co-accused as the applicant is involved with other co-accused in theft of vehicles stretching all over the country.

6. This Court has heard the learned counsel for the parties and perused the documents on record.

7. At the outset, the conditions for granting bail to an accused are [*Re.: Prasanta Kumar Sarkar vs. Ashis Chatterjee* (2010) 14 SCC 496 and *State of Uttar Pradesh vs. Amaramani Tripathi* (2005) 8 SCC 21 and *Deepak Yadav vs. State of Uttar Pradesh* (2022) 8 SCC 559] :-

- i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- ii. nature and gravity of the accusation;
- iii. severity of the punishment in the event of conviction;
- iv. danger of the accused absconding or fleeing, if released on bail;
- v. character, behaviour, means, position and standing of the accused;
- vi. likelihood of the offence being repeated;
- vii. reasonable apprehension of the witnesses being influenced; and
- viii. danger, of course, of justice being thwarted by the grant of bail.

8. Considering that the applicant is involved in 11 FIRs, out of which 10 FIRs including the present one, are under the same Sections 379/ 411 IPC and one of which is registered at Mumbai coupled with the fact that they



have been registered within a span of six years one after the other, and a perusal of Status Report, leads this Court to the *prima facie* conclusion that the applicant is a habitual offender.

9. While considering an application for the grant of bail, no doubt, this Court has to take into consideration the personal liberty of the accused as a relevant factor, however, at the same time it is the duty of the Court to also take into account the nature of the offences involved and the charges levelled and also if the accused can be a threat to the Society, if granted bail coupled with the overall conduct of the accused. Keeping the aforesaid in mind and considering the character and background of the present applicant and the fact that he has been involved in committing similar offences over a period of time and that he is an accused under similar penal offence in other FIRs, in the opinion of this Court, granting bail to the applicant would not be prudent at this stage, in fact, this Court feels that it would be a travesty of justice to the Society at large, if the applicant is granted anticipatory bail.

10. Thus, in view of the applicant being involved in as many as 10 FIRs under Sections 379/ 411 IPC, in the opinion of this Court, the present application for grant of anticipatory bail to the applicant deserves to be dismissed at this stage.

11. Accordingly, the present application of the applicant for granting anticipatory bail under Section 438 Cr.P.C. in an e-FIR no.8028/2023 under Sections 379 of the Indian Penal Code, 1860 at P.S. e-Police Station (Bhajan Pura, North East), Crime Branch, Delhi is dismissed.

12. Needless to say that, observations made on the merits of the matter, if any, are only for the purposes of adjudicating the present application and shall not be construed as expressions on merits of the matter.



13. Strangely, after addressing and concluding his arguments at length by learned counsels for both parties and after passing of the present order, learned counsel for applicant for the first time disputes the contents of the Status Report. As per this Court, the same being a clear after-thought, is negated.

14. The application stands disposed of.

SAURABH BANERJEE, J

JULY 21, 2023/akr