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

+ **BAIL APPLN. 3901/2021 & CrI. MC Bail.1300/2021**

HITESH PATHAK

..... Petitioner

Through: **Mr. Avadh Kaushik, Adv.**

versus

THE STATE NCT OF DELHI

..... Respondent

Through: **SI Sumit, PS Subhash Place.**

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Date of Decision: 10.04.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed seeking anticipatory bail in FIR No. 0681/2021 registered at PS Subhash Place, under Section 354/354(B)/506/323 IPC. Learned Counsel for the petitioner submits that the petitioner was granted interim protection by this Court Vide order dated 28.10.2021 which has extended from time to time.

2. Learned additional PP submits that the petitioner has joined the investigation and after investigation, the chargesheet also been filed under sections 323/354/354(B)/506 IPC and Section 10 POCSO Act, 2012. He submits that the accused has already been summoned by the learned Trial Court and the matter is at the stage of the trial.

3. It is a settled proposition that the basic role of the criminal justice



system is bail and not jail. This court and the Supreme Court have said this time and again that the courts must enforce this principle in practice. It has to be borne in mind that denial of bail amounts to deprivation of personal liberty.

4. In the case of *Siddharam Satilingappa Mhetre vs. State of Maharashtra* (2001) 1 SCC 694, after concerning grant of anticipatory bail after exhaustively analysing the rights under Article 21 inter alia held that a great ignominy, humiliation and disgrace is attached to the arrest. It has further been held that arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community.

5. In *Nathu Singh v. State of U.P.* (2021) 6 SCC 64, the Apex Court inter alia held that grant or rejection of an application under Section 438 CrPC has a direct bearing on the fundamental right to life and liberty of an individual. Thus, while considering the bail this court has to look into the facts and circumstances of the case so as to ensure that there is no infringement of fundamental rights. In *Nathu Singh's* case (supra), the Apex Court has held that Section 438 Cr.P.C. needs to be read liberally, and considering its beneficial nature, the courts must not read in limitations or restrictions that the legislature have not explicitly provided for.

6. The parameter for grant of anticipatory bail are the nature and gravity of offence, the role attributed to the applicant and the facts of the case. It is also pertinent to mention here that this Supreme Court has laid down time and again that unnecessary restrictions or conditions should also not be imposed in routine manner. The conditions, which limit the grant of anticipatory bail may be granted only if they are required in the facts of any



case(s). Reliance has been placed upon se of *Sushila Aggarwal v. State (NCT of Delhi)* (2020) 5 SCC 1.

7. Taking into account the totality of facts and circumstances, the petitioner is granted bail on furnishing a personal bond of Rs. 25,000/- with a surety of the like amount to the satisfaction of the learned Investigation Officer subject to the following conditions:

- a) the Applicant shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
- b) the Applicant shall under no circumstances leave India without prior intimation of the Court concerned;
- c) the Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- d) the Applicant shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times;
- e) In case of a change of residential address and/or mobile number, the Applicant shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

The present petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

APRIL 10, 2023
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