



2024 : DHC : 256



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

*Date of decision: 11.01.2024*

+ BAIL APPLN. 4304/2023  
VIPUL JAIN

..... Petitioner

Through: Mr.Varun Singh, Mr.Akshay  
Dev, Mr.Ytharth Kumar,  
Mr.Abhijeet Kr. Panday,  
Mr.Rohan Chandra, Ms.Smriti  
Wadhwa & Mr.Pankaj Kumar  
Madi, Advs.

versus

STATE THROUGH GOVT OF (NCT) OF DELHI & ANR.

..... Respondents

Through: Mr.Aman Usman, APP with SI  
Lal Chand & IO ASI Murli  
Singh, PS Mohan Garden with  
Mr.Yogesh Sharma,  
complainant.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**NAVIN CHAWLA, J. (ORAL)**

1. This application has been filed under Section 438 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking anticipatory bail in FIR No. 0433/2023 registered with Police Station: Mohan Garden, Delhi under Sections 420/467/468/471/506/34 of the Indian Penal Code (in short, 'IPC').
2. The above FIR was registered on a complaint filed by



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one Sh.Yogesh Sharma, who had stated that he had taken a loan from one Kogta Financial (I) Ltd (Kogta Finance Bank) (hereinafter referred to as the 'Finance Company') for purchasing a Maruti Suzuki Eeco. He admitted that the loan was to be repaid in 24 instalments, however, he had paid only 4 of the said instalments. He alleged that he had stopped making payments of further instalments as proper receipt of payment made was not being issued to him.

3. The complainant stated that on 11.09.2023 at 11:30 AM, three unknown persons from the Finance Company, one of whom the prosecution alleges is the petitioner herein, came along with a female and a male Police Officer, and started quarreling with the complainant and snatching the keys of the car from him. They were asked to produce the authority on the basis of which they were demanding the possession of the car, however, they did not have any order from any Court. A complaint was also made to the SHO and the ACP, who advised the complainant to record the proceedings. It was later discovered that they had produced a fabricated and forged paper purporting itself to be an order passed by an Arbitrator in an arbitration proceeding authorizing them to take the possession of the car. This document is now found to be forged and fabricated.

4. The learned counsel for the applicant submits that the allegations of misbehavior are made only against the two Police Officers and not against the applicant. He further submits that

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the complaint itself records that the persons who had visited the complainant were not in the possession of any Court order. He submits that the petitioner never visited the Police Station to seek Police assistance and this can be verified from the CCTV footage of the Police Station as of that date. He submits that, therefore, there is no material on record to show that the alleged forged and fabricated Arbitration Order has been produced by the applicant or forged by him.

5. He submits that instead of taking action against the erring Police Officers, he is being falsely involved in the present case. He further submits that the prosecution cannot cherry-pick the persons against whom they wish to proceed and this itself should be a ground for releasing the applicant on anticipatory bail. In support, he places reliance on the judgment of this Court in ***Preeti Chandra v. Directorate of Enforcement***, 2023 SCC OnLine Del 3622.

6. He submits that even otherwise, the beneficiary of any such document would be the Finance Company. In the absence of the Finance Company being made an accused in the complaint, the applicant is entitled to a grant of anticipatory bail. In support, he places reliance on the judgment of the Supreme Court in ***Maksud Saiyed v. State of Gujarat & Ors***, (2008) 5 SCC 668.

7. Placing reliance on the judgment of the Supreme Court in ***Dr. Vimla v. Delhi Administration***, AIR 1963 SC 1572, he submits that, admittedly, no loss has been caused to any person





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by the alleged acts of the applicant. He submits that, therefore, no case under Section 467 of the IPC is made out against the applicant.

8. He submits that the applicant, after the grant of the interim anticipatory bail by this Court vide its order dated 20.12.2023, has joined the investigation and even otherwise, undertakes to comply with all the directions of this Court, including joining further investigation. He submits that the applicant is only a salaried employee and, therefore, should not be made to undergo incarceration/custody.

9. On the other hand, the learned APP for the State submits that it is the applicant who produced the alleged forged arbitration order to the Police, and an entry in this regard is made in GD No. 51A dated 11.09.2023. It is on that basis that the Police Officers were made to accompany the applicant to recover the car from the complainant.

10. He submits that though the applicant tried to plead that he was not present at the Police Station, the same can be also verified from the fact that he had handed over a copy of his ID card along with a copy of the Arbitration Order, when he approached the Police for assistance to recover the vehicle from the complainant. He submits that the applicant knows that due to the passage of time, the CCTV footage would now not be available.

11. He submits that the fact that the Arbitration Order produced by the applicant is fabricated, has become evident

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from the statement of the learned Advocate, who was claimed to be the author of the same, and also by the information given by the Kogta Finance Bank, which has stated that no such arbitration proceedings were ever initiated by it.

12. He submits that, in any case, this is a matter in which a fair and effective investigation requires custodial interrogation of the applicant herein to find out as to who fabricated this order.

13. He submits that as far as the erring Police Officers are concerned, disciplinary inquiry was initiated against them. Though in such inquiry, no further action has been recommended against them, a final decision in this regard has not been taken.

14. I have considered the submissions made by the learned counsels for the parties.

15. While there can be no dispute on the fact that the complainant himself may have been guilty of not having paid the instalments in accordance with the Loan Agreement with the Finance Company, however, the recovery of the vehicle can only be made in accordance with the law. Forging an order, may be of an alleged arbitrator, is a serious offence.

16. In the present case, the allegation against the applicant is that he has produced before the Police, a forged and fabricated Order purportedly passed in an arbitration proceeding. Though the applicant denies this allegation, it would require a detailed investigation by the police. Even otherwise, as to who

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fabricated this purported order, needs to be investigated and ascertained. The presence of the applicant at the spot would also require investigation. This may require the applicant to be confronted with other witnesses.

17. I am informed that the other accused, that is, Sh.Naveen Kumar, who had accompanied the applicant, was also taken into custody and was later released on regular bail.

18. Merely because no action has been taken against the erring Police Officers, in my view, the same cannot be a reason for granting anticipatory bail to the applicant at this stage of the investigation. The learned APP for the State submits that in case, on investigation, some further material is found against these Officers, appropriate action shall be taken against them as well.

19. As far as the question of no loss being caused due to the acts of the applicant is concerned, it is also a matter of trial and cannot be considered at this stage.

20. For the above reasons, the judgment of this Court in ***Preeti Chandra*** (Supra); and of the Supreme Court in ***Dr. Vimla*** (Supra), cannot come to the assistance of the applicant, at this stage.

21. As far as the judgment of the Supreme Court in ***Maksud Saiyed*** (Supra) is concerned, it was on a totally different set of facts and situation, wherein allegations were made against the Bank therein for coming out with public issue, wherein it was stated that certain false information had been given. The said



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judgment, therefore, cannot come to the aid of the applicant.

22. Accordingly, I find no merit in the present application.  
The same is dismissed.

23. It is clarified that any or all observations made hereinabove shall not in any manner prejudice the rights and contentions of the applicant in future proceedings emanating from the above-mentioned FIR.

**NAVIN CHAWLA, J**

**JANUARY 11, 2024/rv/AS**

*Click here to check corrigendum, if any*

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