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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 13<sup>th</sup> September, 2024***+ **BAIL APPLN. 3327/2024****SHALINI JAIN**

.....Petitioner

Through: Mr. Varun Goswami, Mr. Shourya Mehra, Mr. Sahil Agarwal, Mr. Hritik Chaudhary and Mr. Naveen Grover, Advocates.

versus

**STATE OF DELHI & ANR.**

.....Respondents

Through: Mr. Sanjeev Sabharwal, Ld. APP for the State.  
Mr. Abhimanyu Tewari and Ms. Eliza, Advocates for R-2/State of Arunachal Pradesh.  
Mr. Siddhant Saroha, Advocate for Complainant.

**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CRL.M.A. 27850/2024 (Seeking Exemption)**

1. Allowed, subject to just exceptions.
2. The application is accordingly disposed of.

**BAIL APPLN. 3327/2024**

3. A Bail Application under Section 482 BNSS read with Section 528 of BNSS has been filed on behalf of the petitioner for grant of Transit Bail for



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30 days in case FIR No.0051/2024 P.S. Nirjuli Papum Pare (City) under Section 420/406 IPC.

4. It is submitted that the petitioner has been named as an accused in the said FIR, even though the averments made in the complaint do not disclose any criminal offence, but essentially an underlying civil dispute. The complaint has been filed only to arm-twist the petitioner by giving it a criminal colour. The sole motive of lodging the complaint is to cause undue and torturous harassment to the petitioner.

5. There is a reasonable and clear threat by the petitioner being arrested in Delhi in the aforesaid FIR by the concerned police with the assistance of local police on 16.09.2024 in case she appears at the concerned Police Station. She is totally unacquainted with the State of Arunachal Pradesh and the particular locality of Papum Pare (City) and of lawyers, legal advisors etc., whereby she can seek appropriate legal remedy. She would require some time to take legal assistance for her appropriate legal protection. There is no recovery of any kind that has to be made from her nor is there any investigation required to be done. She is a respectable citizen of this Country. There is no evidence against her of having committed the criminal offence. She has clean antecedents and deep roots in the Society. Hence, a prayer is made for grant of Anticipatory Bail or Interim Transit Bail.

6. **Learned counsel for State of Arunachal Pradesh** on instructions submits that the Arunachal Pradesh Police shall not be arresting the petitioner in Delhi, therefore, her apprehension of arrest in Delhi is misfounded.

7. **Learned counsel for the complainant** on instructions refutes that any kind of threat has been extended to the petitioner. It is further submitted



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that the lawyers for the complainant had appeared in Arunachal Pradesh and had gone to the Police Station on 08.09.2024 in compliance of Notice under Section 35 BNSS. They are well aware of the registration of FIR in Arunachal Pradesh and have sufficient wherewithal along with the knowledge, to approach the concerned Court in Arunachal Pradesh for the relief, as prayed for.

**8. Submissions heard.**

9. The Cr.P.C. (now B.N.S.S) explicitly defines local limits and local jurisdiction within which the Magistrate may exercise the Jurisdiction. Even though the High Court is defined in Cr.P.C., no provision explicitly defines a territorial jurisdiction which can be discerned from the Constitution of India. The provisions of Anticipatory Bail as envisaged under Section 438(1)(iv) Cr.P.C. makes explicit the legislative intent to save the accused from apprehended arrested especially in motivated or malicious prosecution or in false cases. Section 438 Cr.P.C seeks to remedy the apprehension of wrongful arrest. The words “*reason to believe that he may be arrested*” provides sufficient amplitude to look into the circumstances under which these words have been used and whether something explicit is behind the words which control the literal meaning of such words; to give an interpretation that there is an absolute bar on the jurisdiction of Court of Session or this Court to grant extra territorial Anticipatory Bail may lead to anomalous and unjust consequences for bonafide applicants who may be victims of wrongful prosecution.

10. The Allahabad High Court in the case of Amita Garg vs. State of U.P 2022 SCC OnLine Allahabad 463 observed that there is no legislation or law which defines Transit or Anticipatory Bail in definitive or specific terms.



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The term “*Transit*” means the act of being moved from one place to another. Since, the expression “*Anticipatory Bail*” means granting bail to an accused who is anticipating arrest, “*Transit Anticipatory Bail*” would refer to bail granted to any person who is apprehending arrest by the Police of a State other than the State where he is presently located. The “*Transit Anticipatory Bail*” means protection from arrest for a certain definite period. Mere fact that an accused has been granted Transit Anticipatory Bail, does not mean that the regular Court under whose jurisdiction the case would fall, shall extend such Transit Bail and convert the same into Anticipatory Bail. The grant of Transit Anticipatory Bail only enables a person to apply for Regular Anticipatory Bail before the Court of Competent Jurisdiction, which may then consider the prayer on its own merits. The Transit Anticipatory Bail is only a temporary relief which an accused gets for a certain period of time so that he can apply for Anticipatory Bail before the regular Court.

11. In the case of *Priya Indoria vs. State of Karnataka & Ors.* (2024) 4 SCC 749, the Apex Court observed that having regard to the vastness and the length and breadth of our country and bearing in mind the complex nature of life of the citizen, if an offence is committed by a person in a particular State and the FIR is filed in another State and the accused is a resident of third State, bearing in mind the constitutional right of access to justice guaranteed under Article 21 of the Constitution of India, the accused should be able to get the limited relief of Anticipatory Bail of transitory nature in order to facilitate him to pursue his legitimate rights of seeking bail.

12. In the case of *Priya Indoria* (supra), while holding that there may be exceptional circumstances where Transit Anticipatory Bail may be



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warranted, but it was observed that such extra territorial Anticipatory Bail should be exercised in exceptional and compelling circumstances, which means that where denying Transit Anticipatory Bail or interim protection to enable the applicant to make an application under Section 438 Cr.P.C before a Court of competent jurisdiction, would cause irremediable and irreversible prejudice to the applicant, the Court may as it deem fit, grant interim protection instead of fixed period bail and direct the Applicant to make an application before the Court of competent jurisdiction.

13. Applying the aforesaid principles to the present case, FIR No.51/2024 has been registered in Arunachal Pradesh under Section 420/406 IPC. The petitioner has sought Transit Anticipatory Bail to be able to approach the Competent Court in Arunachal Pradesh. The claim of the petitioner is that her lawyers had gone to the concerned Police Station on 08.09.2024, but they had a difficult time in the Police Station, which has given rise to the apprehension that when even the lawyers have not been entertained, the petitioner may suffer at the hands of the Police.

14. The offence has been allegedly committed in Arunachal Pradesh while the petitioner/accused is a resident of Delhi, looking at the circumstances wherein to travel to Arunachal Pradesh and to be able to arrange the appropriate legal support and engage legal counsel may entail some difficulty whereby creating a threat of wrongful apprehension, it can be reasonably concluded that this is a fit case where exceptional circumstances exist calling for invoking of extra territorial jurisdiction to grant protection to the petitioner. The counsel on behalf of Arunachal Pradesh has already given a Statement that it shall not be arresting the petitioner in Delhi.

15. Thus, though there is no imminent threat of arrest in Delhi, there does



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exist exceptional circumstances warranting grant of extra territorial Anticipatory Bail. The Petitioner is granted limited Anticipatory Bail for a period of 3 weeks to be able to approach the Court of competent jurisdiction where the FIR has been registered, where the concerned Competent Court shall be at liberty to consider the Bail on its own merits, in accordance with law.

16. The petition is accordingly disposed of.

**(NEENA BANSAL KRISHNA)**  
**JUDGE**

**SEPTEMBER 11, 2024**

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