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

+ **BAIL APPLN. 3338/2024 & CRL.M.A. 27972/2024**

ASHOK KUMAR SINGH

.....Petitioner

Through: Mr. P. S. Sridhar Raj, Mr. Abhishek Pandey, Ms. Sharmila Lenka and Mr. Manish Kumar Raghav, Advocates.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for the State along with SI Dilbag

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

12.12.2024

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1. The instant application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter “BNSS”) has been filed on behalf of the applicant/petitioner seeking anticipatory bail in FIR bearing No. 394 registered at Police Station, Kashmere Gate for offence punishable under Section 381 of Indian Penal Code (hereinafter as “IPC”).

2. Learned counsel appearing on behalf of the petitioner submitted that the allegations which are made in the present FIR are false, frivolous, bogus and fabricated. It is submitted that the applicant is an innocent person and has not committed any offence as alleged in the FIR.

3. It is submitted that the petitioner was initially given interim protection by the learned Trial Court *vide* order dated 25th July, 2024 and he has appeared before the investigating agency as and when required. It is further



submitted that there is no history of previous involvement of the applicant/petitioner in any criminal case and he has clean antecedent.

4. It is submitted that after reading the allegations in the FIR, the offence punishable under Section 381 of the IPC is not made out. It is also submitted that there are no flight risk and applicant undertakes to abide by any condition imposed by this Court while granting anticipatory bail. He also undertakes, on instructions that the applicant is cooperate with the investigating agency.

5. *Per contra*, learned APP for the State has vehemently opposed the anticipatory bail application but he did not contradict the statement given by the learned counsel for the petitioner that the petitioner is not an employee of the complainant. He fairly conceded that the petitioner is not employee of the complainant.

6. Learned counsel appearing on behalf of the complainant prayed that no case is made out for releasing the petitioner on anticipatory bail as there is some recovery to be made out from the petitioner.

7. While opposing the instant bail application, the learned counsel for the complainant also submitted that the petitioner is the master mind of commission of the offence as alleged in the FIR and he will influence the witnesses and temper the evidence, therefore, he may not be released on anticipatory bail.

8. Heard learned counsel for the petitioner, learned APP for the State as well as learned counsel for the complainant and perused the contents made in the petition as well as other material on record.

9. It is an admitted fact that the petitioner is not the employee of the complainant, therefore, the allegations made in the present FIR is not made



out for offences punishable under Section 381 of the IPC, there is no history of previous involvement of the applicant in any criminal case and has clean antecedent and applicant undertakes to abide by any condition imposed by this Court while granting anticipatory bail and also undertakes to cooperate with investigating agency as and when required.

10. As per the settled position of law, the ingredients of Section 381 IPC require an accused to be in subservient capacity to the employer. In the instant case, there is no dispute on the non-meeting of the said condition provided in the section under which the FIR has been lodged against the applicant/petitioner, therefore, keeping him in the jail would not serve any purpose.

11. Keeping in view the contentions and the arguments advanced by the learned counsel for the parties, this Court is inclined to grant protection to the applicant. It is directed that in the event of arrest, the applicant be released on bail on his furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with two equal solvent sureties of like amount to the satisfaction of the Investigating Officer subject to the conditions as follows:-

- a) he shall surrender his passport, if any, to the Investigating Officer and shall under no circumstances leave India without prior permission of the Court concerned;
- b) he shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
- c) he shall remain present before the jurisdictional police



station on second and fourth Saturday of every calendar month for the period of two months or till filing of the final report, whichever is earlier;

- d) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- e) he shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times; and
- f) In case of change of residential address and/or mobile number, the same shall be intimated to the Investigating Officer/Court concerned by way of an affidavit.

12. With the aforesaid directions, the bail application stands disposed of.

CHANDRA DHARI SINGH, J

DECEMBER 12, 2024

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Click here to check corrigendum, if any