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

+ **BAIL APPLN. 3520/2024 CRL.M.A. 29493/2024 CRL.M.A.
29494/2024**

AJAY VERMA

.....Petitioner

Through: **Mr. Ajay Kumar Srivastava, Mr.
Vishal Arun Mishra, Ms. Rupali
Panwar and Mr. Ayush Panwar,
Advs.**

versus

STATE NCT OF DELHI

.....Respondent

Through: **Mr. Amit Ahlawat, APP for the State
with Insp. Dinesh Chandra, PS
Khajuri Khas.**

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

**ORDER
30.09.2024**

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1. This petition has been filed seeking anticipatory bail in FIR No.113/2021 P.S. Khajuri Khas under Sections 302/120B/34 of the Indian Penal Code, 1860 (“IPC”) and Sections 27/54/59 of the Arms Act, 1959. The previous petition seeking anticipatory bail being Bail Application No. 984/2024 had been preferred by the petitioner and was listed before the Court on 26th July 2024. On that date, Mr. Zoheb Hossain, Counsel appearing for the petitioner had addressed arguments and subsequently sought to withdraw the petition with liberty to surrender before the Trial Court and to apply for regular bail subsequently which would be considered on its own merits. Accordingly, the petition was dismissed as withdrawn.



Liberty was granted.

2. It transpired thereafter that the petitioner did not surrender and instead NBWs had been issued against him. Moreover, proceedings under Section 82 of the Code of Criminal Procedure, 1973 (“**Cr.P.C.**”) had been initiated on 12th September 2024, the next date for the same is 28th October 2024.

3. Mr. Ajay Kumar Srivastava, Advocate, today appears for the petitioner and states that he is the new counsel in the matter and, therefore, presses this new anticipatory bail application. When confronted with the previous order dated 26th July 2024 passed by this Court where withdrawal of the previous petition was done by the previous counsel, on instructions, Mr. Srivastava, Advocate, states that the said withdrawal was not based on merits of the matter and they seek a disposal on the merits to allow them to seek further relief before the Supreme Court.

4. The APP for the State, at the very outset, objects to the maintainability of this petition in light of the decision of the Supreme Court in *Srikant Upadhyay & Ors. v. State of Bihar & Anr.* 2024:INSC:202. The Supreme Court in para 24 of the said judgment has stated that when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power of anticipatory bail, though, the Court has power to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. The Supreme Court has further stated that the person who has continuously defied orders and keeps absconding is not entitled to such grant. It is an admitted situation that Section 82 Cr.P.C. proceedings have been initiated against the petitioner who despite taking liberty to surrender before the Trial Court, as recorded in the order of 26th July 2024, did not do so and has chosen to approach this Court yet again.



5. Needless to say, this practice of successive petitions is deprecated, particularly considering the matter was withdrawn on 26th July 2024 after arguments being addressed by counsel for the petitioner and amounts to abuse of process of the Court. Nevertheless, the Court considered it fit to hear arguments afresh of the counsel for the petitioner, in the interest of justice.

6. The case of the prosecution is that on 14th March 2021, a telephonic information was received in P.S. Khajuri Khas mentioning that a shopkeeper had been shot dead in Shop No. D-91, Gali No.2, Shri Ram Colony, Delhi. On reaching the spot, they found a person, namely, Shohrab Ansari @ Guddu @ Rustam lying in pool of blood in his own shop and the complainant Sarfaraz was also found present and he stated that he was in the shop with his uncle (deceased) and one other person Adil. Around 8:00 P.M., he stated, two persons came inside the shop and one was waiting at the gate. He asked the deceased to show a shirt and suddenly then opened fire. The other accused also fired and all of them fled.

7. The case was registered and investigation ensued. The CCTV captured the three accused persons and the later identified Sonu Raj, Santosh Kumar and Gaurav Kumar @ Sonu @ Govind, all residents of Patna, Bihar. Upon disclosure, it was revealed that the deceased and one Ajay Verma (petitioner herein) were rival gangsters in Patna. In 2017, the deceased had fired at Ajay Verma but he had survived and an FIR No.276/2017 had been registered under Sections 307/34 IPC at P.S. Sultanganj, Patna. Later, he fled from Bihar and settled in Khajuri Khas.

8. Upon investigation, it transpired that one Imran @ Lallu had hatched a conspiracy along with the petitioner to kill Shohrab and hired the above



three shooters to eliminate him. Imran @ Lallu, who had some family relationship with the deceased, surveyed the workplace of the deceased and then planned to shoot the deceased. All three accused persons are since in custody. Charge-sheets and supplementary charge-sheets have been filed. Imran @ Lallu has also been arrested and was found lodged in Beur Jail, Patna, Bihar. Petitioner as co-accused was still absconding and, therefore, NBWs were issued on him. As per further investigation, it was found that the three accused shooters and Imran @ Lallu met the petitioner outside his home in Patna, Bihar on 20th February 2021 and then again on 15th March 2021 after committing the crime in Delhi. The CCTV footage available in this respect has been presented as evidence.

9. It is stated further that the petitioner has several cases registered against him, which have been extracted in the status report and are reproduced as under:

S. No.	Head	FIR NO.	U/s	Police Station
1.	Murder	354/08	302/201/120B/34 IPC	Sultan Ganj
2.	Murder	514/04	147/148/149/323/324/307/302 IPC	Sultan Ganj
3.	Murder	246/04	302/34 IPC & 27 Arms Act	Perovohan
4.	Murder	452/07	302/34 IPC & 27 Arms Act	Kadam kuwa
5.	Murder	350/12	302/201/34	Kadam kuwa



6.	Murder	217/11	302/120B/34 IPC	kankarbagh
7.	Murder	279/08	302/34 IPC	Patna City
8.	Murder	100/2013	302 IPC	Alamganj
9.	Murder	ST No. 279/08	302 IPC & 27 Arms Act	Patna
10.	Murder	FIR No. 05/08	302/120B/34 IPC & 27 Arms Act	
11.	Arms Act	155/2007	25 (1B)/26 Arms Act	Sultanganj
12.	Arms Act	158/94	25 (1B)/26 Arms Act	Pervohana
13.	Attempt to murder	82/11	387/307/427/120B IPC	Sultanganj
14.	Extortion	156/08	384/120B/34 IPC	Sultanganj
15.	Extortion	161/08	384/386/120B/34 IPC	Sultanganj
16.	Extortion	163/08	384/386/120B/34 IPC	Sultanganj
17.	Extortion	165/08	384/386/120B/34 IPC	Sultanganj
18.	Extortion	37/09	384/34 IPC	Sultanganj

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The Order is downloaded from the DHC Server on 07/10/2024 at 15:46:28



19.	Extortion	79/93	384 IPC	Pervohan
20.	Extortion	73/05	447/384/34 IPC	Pervohan
21.	Robbery	157/08	390/272/273/120B/34 IPC	Sultangan j
22.	Robbery	154/94	396/412 IPC	Pervohan
23.	Kidnapin g	22/12	364/120B/34 IPC	Pervohan
24.	Mobbing	411/96	147/353/337/323/427 IPC	Fulwari
25.	Extortion	188/18	387/388 IPC	Sultangan j
26.	Attempt to murder	324/04	399/402/307/332/333/ 224/225/414/353 IPC	Pervohan
27.	Attempt to murder	180/04	341/342/307/34 IPC	GRP Patna
28.		ST No. 1232/9 9 & FIR No. 291/98		Sultangan j, Patna
29.		ST No. 1228/9 9		Patna

		Session Judge- 06		
30.		ST No. 669/95 ASJ-02		Patna

10. Counsel for the petitioner, however, argues that the involvement of the petitioner is purely on disclosure of the three co-accused, no arms have been recovered from the petitioner, his presence was not there at the scene of the crime and that as per the disclosure, an unknown person has supplied



the arms to the hitmen, but neither the name of that person has been disclosed nor has he been arrested. As regards the previous involvements of the petitioner, he states that he has been acquitted in 16 matters.

11. The APP for the State states on instructions of the IO, that the CDR locations of the co-accused were found outside the residence of the petitioner.

12. Notwithstanding that as per the dictum in *Srikant Upadhyay (supra)*, anticipatory bail ought not to be granted to the petitioner who is absconding and Section 82 Cr.P.C. proceedings having been initiated. Taking a second shy through a different counsel before the Court would also merit a dismissal. However, even on the merits of the matter ignoring these aspects, it is in the opinion of this Court that the petition cannot be allowed.

13. The gravity of the offence is apparent, where the deceased was shot at point blank range in his own premises and the shooters thereafter fled from the spot. The petitioner has been roped in pursuant to the investigation for hatching the conspiracy, apparently as a matter of revenge. Even though, these are aspects which will be ultimately filtered during the trial, at this stage the petitioner does not merit the benefit of pre-arrest bail, considering his conduct as well as his previous involvements.

14. The chart of previous involvements which has been extracted above shows 10 cases relating to murder, 2 under Arms Act, 3 for attempt to murder, 8 for extortion, 2 for robbery, 1 for kidnapping and 1 for mobbing, at the very least.

15. Applying the principles laid down by the Supreme Court in *Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors.* (2011) 1 SCC 694, it is not the stage for the Court to take a view that there is no



genuineness in the case of the prosecution. The significance of CCTV footage on 2 dates, pre and post the date of incident, and the co-accused being present outside the house of the petitioner, as well as the CDR records, corroborating the same cannot be ignored.

16. Counsel for the petitioner further pleads that the petitioner has been suffering from various medical problems like liver disease, sugar, heart problem and kidney stone. On this basis, he pleads that the petitioner is unable to surrender. The Court has perused these medical documents and does not find the same as a reason can be considered for pre-arrest bail. A perusal of these documents would show that they are either of 2022 and 2023 and a random clutch of prescriptions have been filed, of regular blood tests, to somehow put forward the impression that the petitioner is unwell and is unable to surrender. The plea is, therefore, specious, and untenable and combined with other facts and circumstances, further buttresses the opinion of this Court.

17. Further, the letter which has been appended at Annexure A-12 to the petition has been adverted to. As per this letter dated 05th March, 2024, the wife of the deceased has purportedly signed a typed letter which states that she and her husband or her family were never threatened by the petitioner and according to her information, the persons responsible for her husband's death are "solely" Sonu Raj, Santosh Kumar, Gaurav Kumar @ Sonu @ Govind and Imran @ Lallu. She further reiterates that the petitioner is not involved in any way with the killing of her husband. She, in fact, prays that for her husband's murder, the petitioner may not be considered as involved and no criminal proceedings be continued against him. The very content, tone and tenor of this letter has raised suspicion of this Court to a fairly high



degree.

18. Not only was this letter not presented the previous time when the petition was filed, but has now been presented using careful language which is sought to exonerate the petitioner completely. A typed letter in well-articulated Hindi, with carefully worded sentences, that seems to be legally weighed, is quite amiss, unbelievable and *prima facie* forced. The wife of the deceased has merely signed in Hindi at the bottom of the letter. This is in stark contrast to her statement recorded under Section 161 Cr.P.C. on 15th March 2021 where she blamed the petitioner for the murder of her husband stating that he is a strongman (*'bahubali'*) who has even earlier tried to grab their properties and they are constantly trying to save themselves from these attempts, and that they have received threats from the petitioner and Imran @ Lallu.

19. The said letter is annexed hereunder:

**ANNEXURE A-12**

दिनांक: 05.03.2024

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सेवा में

श्रीमान DCP साहब
जिला नॉर्थ ईस्ट
दिल्ली

विषय : FIR No.113/2021, Police Station खजुरी खास सही तथ्यों को
रेकॉर्ड पर लाने के लिए।

मान्यवर,

सविनय निवेदन यह है की नासरीन खातून, पत्नी स्व: श्री सोहराब अंसारी, निवासी मन.1/187, गली न.1, संतराम कॉलोनी, राजीव नगर करावल नगर दिल्ली-110094 पर रहती हैं। दिनांक 13.03.2021 को मेरे पति सोहराब अंसारी की हत्या मेरे पुत्र इमरान अंसारी की दुकान में हुई थी जिसके संदर्भ में हमने शुरुआत में अजय वर्मा और इमरान उर्फ लल्लू का नाम शक के आधार पर लिखवाया था।

साल 2017 में अजय वर्मा पर गोली चली थी जिसमें अजय वर्मा ने मेरे पति का नाम शक के आधार पर पुलिस को बताया था जिसमें कोई सच्चाई नहीं थी। उस घटना के बाद मेरे पति अथवा मेरे परिवार के किसी सदस्य को अजय वर्मा के द्वारा कोई धमकी नहीं दी गई थी।

पिछले 3 साल में हमारे दोस्तों व परिवार से जो जानकारी मिली और जिस तरह से मुझे व मेरे परिवार के सदस्यों को इमरान उर्फ लल्लू के परिवार से केस वापस लेने की धमकी मिल रही हैं उससे मुझे पता चला की मेरे पति की हत्या में केवल सोनू राज, सतोष कुमार, गौरव व इमरान उर्फ लल्लू ही शामिल हैं इनके अलावा अजय वर्मा का मेरे पति की हत्या में किसी भी प्रकार से हाथ नहीं है।

श्रीमानजी इमरान उर्फ लल्लू और उसके परिवार द्वारा केस वापस लेने की धमकी दी गई थी जिसके संदर्भ में मैंने 09 जून 2021 को एक शिकायत दर्ज कराई थी।

अतः श्रीमानजी से प्रार्थना है की मेरे पति की हत्या से संबंधित उपरोक्त में अजय वर्मा को शामिल न किया जाय और न ही अजय वर्मा के वीरुध कोई कानूनी कार्यवाही जाय आपकी अति कृपा होगी।

धन्यवाद

नासरीन खातून
प्रार्थी

20. In these facts and circumstances, the Court is not inclined to allow



this petition.

21. The petition is, therefore, dismissed with pending applications (if any) rendered as infructuous.

22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 30, 2024/MK/kp