



\$~6

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

+ **BAIL APPLN. 3734/2024**

SHRIRAJ SINH VAGHELA

.....Petitioner

Through: Mr. Vikram Singh Jakhar, Mr. Mohit Yadav, Ms. Shruti Datta, Ms. Chetna Sharma and Mr. Vishul Dabas, Advocates.

versus

**THE STATE OF NCT OF DELHI THROUGH ITS STATION
HOUSE OFFICER INDIRA GANDHI INTERNATIONAL
AIRPORT NEW DELHI**

.....Respondent

Through: Ms. Richa Dhawan, APP for the State.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

29.11.2024

%

1. The instant anticipatory bail application under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") has been filed on behalf of the petitioner/applicant seeking the following reliefs:

"i. Allow the present application 482. B.N.S.S. 2023 filed by the petitioner thereby directing the concerned SHO/IO/ Af1:esting officer m case FIR · No. 0687/2024 dated 16/09/2024 U/s 318(4)/336(3)/340(2) BNS 2023 R/w 12 PP Act to release the petitioner on bail in the event of his. arrest, in the interest of justice.

ii. Pass such other or further order/orders which this Hon 'ble Court may deem fit and proper in the facts and. circumstances of case."



2. Learned counsel appearing on behalf of the applicant submitted that the applicant is an innocent person and has not committed any offence as alleged in the aforesaid FIR.

3. It is submitted that the co-accused persons namely Mr. Ashishsinh Ghanshyamji Chavada and Mrs. Priyankaben Ashishsinh Chavada were travelling to Toronto, Canada, however, before boarding the flight, they were apprehended by the immigration staff of Air Canada for allegedly having fake visas on their passports. However, the applicant is not involved in the present case and there are no specific allegations made against him.

4. It is submitted that the applicant is not directly or indirectly involved with the alleged offences, and he has been falsely implicated on the basis of the discloser statement of the co-accused persons. Furthermore, there is no documentary evidence to show that the alleged fake visa documents have been made or provided by the applicant.

5. It is submitted that the applicant has been falsely implicated in the instant case as there is a delay of more than 14 hours in registration of the aforesaid FIR without assigning any reason. Furthermore, it is submitted that the applicant has not received a notice under Section 41A of the Code of Criminal Procedure, 1973 (hereinafter as the “Code”) from the investigating agency.

6. It is further submitted that the co-accused persons, in their police custody application dated 17th September, 2024 as well as in the judicial custody application dated 24th September, 2024, have not disclosed any role of the applicant in the alleged offence.

7. It is submitted that although the co-accused persons were arrested by police officials in the instant case, there were enlarged on regular bail by the



learned Judicial Magistrate, New Delhi *vide* order dated 30th September, 2024.

8. It is submitted that the applicant, under the apprehension of his arrest in the present case, moved an anticipatory application before the learned ASJ in Bail Matter bearing no. 1488/2024, wherein the applicant was denied the relief of anticipatory bail by the learned ASJ *vide* order dated 8th October, 2024.

9. It is further submitted that one Mr. Ashishsinh Chavada, applicant's nephew, stated in his affidavit that the concerned Investigating Officer forcibly took his signatures on 4-5 bank pages and hence, the applicant has been falsely implicated in the instant case.

10. It is submitted that the applicant is a law-abiding citizen and a permanent resident of the State of Gujarat, hence, there is no flight risk.

11. Learned counsel for the applicant undertakes that the applicant shall abide by any condition imposed upon him by this Court while granting him anticipatory bail. He further undertakes that the applicant is ready to cooperate with the investigating agency and shall be present before the investigating agency as and when required and furnish any document required for the purpose of investigation.

12. In view of the foregoing submissions, it is prayed that the applicant may be granted anticipatory bail.

13. *Per Contra*, Ms. Richa Dhawan, learned APP appearing on behalf of the State vehemently opposed the instant application submitting to the effect that there is sufficient material available on record against the applicant which corroborates his involvement in the instant crime. During the course of arguments, the case diary was placed before this Court for perusal.



14. It is submitted that the applicant herein alongwith another co-accused person namely Mr. Mahendra Chavada entered into a deal of Rs. 65,00,000/- with the co-accused passengers, out of which the applicant took a sum of Rs. 29,00,000/- in advance from the said co-accused passengers in lieu of providing Canadian visas. It is submitted that it was agreed between them that the remaining amount will be given to the applicant upon reaching Canada.

15. It is submitted that the applicant was seen along with the co-accused passengers as well as another co-accused namely Mr. Mahendra Chavada in the CCTV footage of the Portview Hotel, Mahipalpur, Delhi near the IGI Airport and the same was confirmed with the entry register of the said hotel.

16. It is submitted that the applicant was in constant contact with the co-accused passengers in order to provide them with fake visa documents, and thus, custodial interrogation of the applicant is duly required in order to unearth the whole nexus of this illegal business of providing fake visas to send people abroad.

17. It is further submitted that the raids were conducted to find out the whereabouts of the applicant and co-accused, however, the applicant was not found as well as his mobile number was found to be switched off, hence, notice under Section 41A of the Code was pasted on the door of the accused after verification of the requisite details.

18. It is submitted that in view of the above facts and circumstances, and the fact that there is a larger conspiracy involved in this illegal act of obtaining and providing fake visas, it is prayed that the instant application may be dismissed.

19. Heard learned counsel for the parties and perused the record.



20. At this stage, it is relevant for this Court to understand the circumstances and factors which is required to be considered while granting anticipatory bail. Hence, it is pertinent to mention the case of ***Lavesh v. State (NCT of Delhi), (2012) 8 SCC 730***, wherein the Hon'ble Supreme Court observed that while granting anticipatory bail to the accused, the Courts must examine the gravity and magnitude of the allegations levelled against him as well as other factors such as the previous conduct, antecedents, possibility of fleeing justice etc.

21. Now advertent to the instant case, it is observed that the gravity of the allegations levelled against the applicant herein for procuring an advance amount of Rs. 29,00,000/- in advance from the co-accused passengers in lieu of providing them with fake Canadian visas are grievous in nature.

22. After perusing the contents of the Status Report as well as the case diary, it is further observed that it is an admitted fact that the applicant is seen staying in a hotel with the co-accused passengers as well as co-accused Mr. Mahendra Chavada and the same is visible in the CCTV footage as well as from the entry register of the concerned hotel. It is also an admitted fact that the co-accused passengers i.e., Mr. Ashishsinh Ghanshyamji Chavada and Mrs. Priyankaben Ashishsinh Chavada were travelling to Canada on a fake visa.

23. Further, it was not denied by the petitioner that Mr. Mahendra Chavada, who is currently absconding, is actively involved in making the fake visa racket and therefore, there involves a larger conspiracy behind the creation of fake visas to enable people to travel abroad illegally. It is also noted that the phone numbers of the accused persons, including the applicant's was found to be switched off and they were found to be



absconding.

24. Therefore, keeping in view of the law laid down ***Lavesh v. State (NCT of Delhi) (Supra)***, the allegations levelled against the applicant are serious in nature. Moreover, this Court is of the considered view this illegal trade of making and providing fake visas is a serious offence as well as a threat to the security of this nation, for which the custodial interrogation of the applicant is duly warranted. Moreover, it is specifically mentioned in the Status Report that there are serious allegations made against the applicant as he has been termed as the key person involved in the entire nexus of the illegal business of making fake visas.

25. Therefore, keeping in view the above peculiar facts of the instant case as well as the law laid down in by the Hon'ble Supreme Court, this Court finds no merit in allowing the instant application as the custodial interrogation of the applicant is highly warranted for proper adjudication of the instant matter and to unearth the larger conspiracy behind the fake visa racket. Therefore, this Court is not inclined to grant anticipatory bail to the applicant herein.

26. Accordingly, the instant petition, alongwith the pending applications, if any, stands dismissed.

27. It is made clear that the observations made herein, touching upon the merits of the case, are purely for the purpose of deciding the question of cancellation of bail, which shall not be construed as an expression of final observations on the merits of the present case.

CHANDRA DHARI SINGH, J

NOVEMBER 29, 2024

Rk/mk

[Click here to check corrigendum, if any](#)