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

+ **W.P.(CRL) 3396/2024 & C.R.L. 32632/2024**

LALIT KUMAR

.....Petitioner

Through: Mr. Anubhav Dubey, Advocate.
(Through VC).

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Rahul Tyagi, ASC for the State.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

28.10.2024

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1. The instant petition has been filed under Article 226 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter as 'CrPC') (Now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) seeking the following reliefs:

- a) Direct command and require the respondent to not engage in any conduct that would constitute a threat toward the petitioner, direct respondent to not compel the petitioner to participate in the inquiry without first providing a copy of the complaint and failing to issue the requisite formal notice as mandated by applicable procedural rules.*
- b) Pass any other order(s) or relief(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.*



2. The learned counsel appearing on behalf of the petitioner submitted that on 11th September, 2024, the petitioner was inquired by some police officials on the alleged complaint made against him.

3. It is submitted that apprehending arrest in a fraudulent complaint against him, the petitioner approached the learned Court below, however, his anticipatory bail was rejected on the ground that no FIR has been lodged against the petitioner and therefore, the nature of crime is unknown.

4. It is further submitted that the police officials of the Cyber Cell, Outer District, New Delhi are threatening the petitioner of dire consequences if he does not join the investigation, and therefore, he apprehends arrest if he joins the same.

5. In view of the foregoing submissions, the learned counsel for the petitioner submitted that the instant petition be allowed and this Court may grant him anticipatory bail.

6. *Per Contra*, the learned ASC appearing on behalf of the State vehemently opposed the instant petition submitting to the effect that the grounds for grant of anticipatory bail are not met as no FIR has been registered against the petitioner.

7. It is further submitted that despite multiple orders to join the investigation, the petitioner has failed to do so, therefore, raising legitimate questions about his conduct and hence, the instant petition being devoid of any merit may be dismissed.

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

9. The instant petition has been filed by the petitioner on the apprehension that he might be arrested if he joins the investigation in a case where no FIR has been lodged.



10. This Court has perused the order passed by the learned Court below whereby, the same reason as cited by the learned APP was given by the learned Court below to dismiss the anticipatory bail filed by the petitioner.

11. As held by the Hon'ble Supreme Court in the case of ***Gurbaksh Singh Sibbia Vs. State of Punjab, (1980) 2 SCC 565***, a person approaching the Court for grant of an anticipatory bail needs to prove that he has reasonable apprehension that he may be arrested in a non-bailable offense.

12. Furthermore, the principle regarding grant of anticipatory bail was crystalised by the Hon'ble Court in the case of ***Sushila Agarwal v. State (NCT of Delhi), AIR 2020 SC 831***, whereby the observations of the Hon'ble Court in the ***Sibbia (supra)*** judgment were reiterated. The relevant part of the said judgment reads as under:

85.1 As held in Sibbia-, when a person apprehends arrest and approaches a court for anticipatory bail, his apprehension (of arrest), has to be based on concrete facts (and not vague or general allegations) relatable to a specific offence or particular offences. Applications for anticipatory bail should contain clear and essential facts relating to the offence, and why the applicant reasonably apprehends his or her arrest, as well as his version of the facts. These are important for the court which is considering the application, the extent and reasonableness of the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not a necessary condition that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.



13. Upon perusal it is clear that even though the Courts are empowered to grant anticipatory bail, the person approaching for the same needs to prove that the existence of reasonable apprehension.

14. Therefore, even though the FIR has not been lodged against a person and the nature of offence is not yet disclosed, a party can be granted anticipatory bail if there are sufficient reasons to prove that there is reasonableness of the threat or apprehension thereof.

15. In the instant case, as per the relevant material on record as well as the contentions advanced by the learned APP, it is apparent that the petitioner has failed to establish the existence of the above-said apprehension of arrest.

16. Furthermore, during the course of proceedings, this Court has been apprised about the non-cooperation of the petitioner with the investigative agency, therefore, leading to further delay in investigation of the offense.

17. Therefore, this Court is of the view that despite the aforesaid apprehension of the petitioner, there has not been any developments which makes this Court believe that the petitioner might get arrested in the complaint filed with the cyber cell.

18. Since the said condition is not met out in the instant case, this Court does not deem it appropriate to grant an anticipatory bail to the petitioner as the instant petition has been filed at a premature stage.

19. Accordingly, the instant petition is dismissed, along with pending applications, if any.

CHANDRA DHARI SINGH, J

OCTOBER 28, 2024/rk/av

Click here to check corrigendum, if any