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

+ **BAIL APPLN. 3985/2024 & CRL.M.A. 32916/2024**

SATENDER

.....Petitioner

Through: Mr. Rohit Yadav, Mr. Anil Singh,
Mr. Deepak Swami and Mr. Ashish
Vyas, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.
SI Sunil Gahlot, P.S.: South Campus.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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26.11.2024

BAIL APPLN. 3985/2024

By way of the present petition filed under section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks anticipatory bail in case FIR No.183/2024 dated 22.10.2024 registered under sections 191(2)/191(3)/110/3(5) of the Bharatiya Nyaya Sanhita, 2023 at P.S.: South Campus, Delhi.

2. Notice on this petition was issued on 29.10.2024, pursuant to which Ms. Shubhi Gupta, learned APP appearing for the State has handed-up a Status Report dated 10.11.2024 under cover of index dated 26.11.2024. The status report is taken on record.
3. Mr. Rohit Yadav, learned counsel appearing for the petitioner submits, that the petitioner has been falsely implicated in the offences alleged in the subject FIR without any basis, inasmuch as he was a 'student activist' and had graduated from the Atma Ram Sanatan



Dharma College, South Campus, New Delhi in 2018; and was not even present at the spot at the time of the alleged incident.

4. Counsel submits that the petitioner is not seen anywhere in the CCTV footage of the spot collected by the Investigating Officer; and allegations have been made against the petitioner based only on the statement given by one of the injured persons, Pankaj, who claims that he, alongwith some other persons, was beaten-up by other co-accused persons at the behest and instance of the petitioner as a result of rivalry between groups of students, in which the aggressors were members of a group called 'Happy Club', which is a group that was headed by the petitioner.
5. The subject FIR arises from an incident where some students of the college were attacked by another group with *lathis* and *dandas* on 21.10.2024, in which 02 persons namely, Pankaj and Harsh, received injuries and the latter was admitted to hospital and came to be discharged only on 04.11.2024 *i.e.*, almost 02 weeks later.
6. The status report recites that based on the CCTV footage of the incident, and after conducting investigation, 03 accused persons were arrested on 22.10.2024 from Delhi; 01 of the accused person was arrested from Rajasthan on 23.10.2024; and all 04 of them are still lodged in judicial custody.
7. The status report further narrates that the CDR of the petitioner has been obtained, and on analysing which it turns-out that the petitioner's location at the relevant time was at the place of the incident; and that he had also made outgoing calls to co-accused Aman and Harshnath soon after the incident on 21.10.2024.



8. It is further narrated in the status report that in statements made by the co-accused persons, 04 of them have disclosed that the attack on 21.10.2024 on the opposing group of students was planned by the petitioner on the previous day and that the petitioner is the 'mastermind' of the incident which relates to student elections.
9. It is also narrated in the status report that the petitioner has two other criminal involvements viz. in case FIR No.623/2015 under sections 384/506/34 of the Indian Penal Code 1860 ('IPC') and FIR No.102/2018 under sections 325/341/506 of the IPC both registered at P.S.: South Campus, Delhi; and that therefore the petitioner's custodial interrogation is required to unearth the conspiracy and to also ascertain the identity of some of the other unknown persons who were involved in the incident.
10. The petitioner's SCRB Report dated 06.11.2024, a copy of which is appended to the status report, confirms his other criminal involvements.
11. Learned counsel for the petitioner submits, that insofar as the other co-accused persons who were arrested in the case are concerned, all of them have now been enlarged on interim bail, since they had to sit their college examinations.
12. While considering the relief prayed-for, this court reminds itself of the observations of the Supreme Court in ***State rep. by the C.B.I. vs. Anil Sharma***¹, where the Supreme Court has *inter-alia* observed as follows:

¹ (1997) 7 SCC 187



“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations (((CHECK QUOTE))) and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce (((CHECK QUOTE))) to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

“7. The High Court has approached the issue as though it was considering a prayer for granting regular bail after arrest. The learned Single Judge of the High Court reminded himself of the principle that “it is well settled that bail and not jail is a normal rule” and then observed thus:

“Unless exceptional circumstances are brought to the notice of the Court which may defeat the proper investigation and fair trial, the Court will not decline bail to a person who is not accused of an offence punishable with death or imprisonment for life. In the present case, no such exceptional circumstances have been brought to the notice of this Court which may defeat proper investigation to decline bail to the applicant.”

“8. The above observations are more germane while considering an application for post-arrest bail. The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest. At any rate the learned Single Judge ought not to have side-stepped the apprehension expressed by the CBI (that the respondent would influence the witnesses) as one which can be made against all accused persons in all cases. The



apprehension was quite reasonable when considering the high position which the respondent held and in the nature of accusation relating to a period during which he held such office.”

(emphasis supplied)

13. Learned APP also submits that ever since the date of the incident, the petitioner is in hiding and has been evading investigation.
14. Upon an overall conspectus of the facts and circumstances of the case, this court is of the view that the material cited before it shows that the petitioner was in some way connected with the acts of violence committed upon a rival students' group in the college campus. Violence in a college campus is in any case abhorrent; and much more so at the hands of a person, who has admittedly graduated from college some 06 years ago; and such incidents are required to be dealt with sternly.
15. Accordingly, this court is persuaded to accept the contention of the State that the petitioner's custodial interrogation would be necessary in the present case.
16. In the circumstances, the court is not inclined to grant any interim protection or anticipatory bail to the petitioner.
17. The present petition is accordingly dismissed.
18. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 26, 2024/ak