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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4734/2024 CRL.M.A. 38697/2024 CRL.M.A.**
38698/2024

AAKASH KASHYAP

.....Petitioner

Through: **Mr. Nikhil Saxena and Mr. Lakshay Chauhan, Advocates.**

versus

THE STATE NCT OF DELHI

.....Respondent

Through: **Mr. Aman Usman, APP for State with SI H.R. Choudhary, PS: Gandhi Nagar.**

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
23.12.2024

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CRL.M.A. 38697/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.A. 38698/2024 (Exemption)

3. Allowed, subject to all just exceptions.
4. Application stands disposed of.

BAIL APPLN.-4734/2024

1. This petition has been filed seeking anticipatory bail in FIR No. 103/2018 under Sections 308/323/452/34 IPC registered at P.S Gandhi Nagar.
2. The said FIR was logged on 18th April 2018. Petitioner was granted bail by order of the Trial court dated 21st May 2018. According to the petitioner,



he has been appearing before the Trial Court since then.

3. However, on 29th August 2022, an externment order was passed for two years. On that ground, he could not appear before the Trial Court till August 2024.

4. Thereafter, NBWs were issued against him, and he has been declared a proclaimed person.

5. Petitioner had moved for anticipatory bail, which was dismissed by the Trial Court on 26th November 2024, on the ground that bail having been granted, and he being declared a proclaimed person, he could not move an application seeking anticipatory bail.

6. A perusal of the Trial Court order reveals that the petitioner remained absent on 09th December 2023, and NBW was issued against him, but it was received back unexecuted on 08th February 2024. Thereafter, a fresh NBW was issued, which was again received back unexecuted on 16th March 2024.

7. Hence, *vide* order dated 16th March 2024, a proclamation under Section 82 Cr.P.C. was issued. As petitioner did not appear on 14th October 2024, therefore, he was declared a proclaimed person.

8. It is evident from the dates mentioned in the dismissal order of the Trial Court that the NBWs were issued during the time when his externment was still in the force i.e. on or before 29th August 2022.

9. Counsel for petitioner states that it was beyond his control not to appear before the Trial Court.

10. APP for State has raised an objection on the issue of maintainability, and states that he could have been appeared post-August 2024, before being declared a proclaimed person.

11. In view of the above facts and circumstances, petitioner is at liberty to



approach the Trial Court for cancellation of the proceedings declaring him a proclaimed offender. The Trial Court will consider the application in accordance with law.

12. Considering the facts and circumstances, petitioner may not be arrested, till petitioner moves the said application before the Trial Court.

13. This petition is disposed of with the above directions.

14. *'dasti'*

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

ANISH DAYAL, J

DECEMBER 23, 2024/RK/tk