



\$~54

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

+ **BAIL APPLN. 106/2025 & CRL.M.A. 685/2025**

SHARAD MAHESHWARI

.....Applicant

Through: Mr. Pawanjit Singh Bindra, Sr.
Advocate with Mr. Manish Kaushik,
Mr. Mishal Johari, Mr. Aryan Pandey
and Mr. Mayank Sarkar, Advocates

versus

STATE OF NCT DELHI AND ORS

.....Respondents

Through: Ms. Richa Dhwan, APP for State
along with SI Tulsi Nagar, PS CR
Park

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

%

13.01.2025

CRL.M.A. 686/2025 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 106/2025

3. The present application has been filed seeking transit Anticipatory Bail in respect of FIR No. 0010/2025 dated 03.01.2025 registered at Police Station Kasganj, Uttar Pradesh under Section 191(2), 191(3), 190, 109, 115(2), 310(2), 351(3), 61(2) of Bharatiya Nyaya Sanhita, 2023 ('BNS') and under Section 3(2)(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, so as to enable the Applicant to approach the High Court of Allahabad to avail his legal remedies.



4. Learned Senior Counsel for the Applicant states that the FIR dated 03.01.2025. It has been lodged by Respondent no. 3 and pertains to an incident which allegedly occurred at 02.01.2025 at Kasganj, Uttar Pradesh.

5. He states that the FIR itself records that the Applicant herein was not present at the site nor he was even present at Kasganj, Uttar Pradesh on the said date of incident. He states that the Applicant was in Delhi on 02.01.2025.

6. He states that the Applicant has been falsely implicated due to the disputes of encroachment of land between several land owners including Applicant against Respondent No. 3 and his mother who occupy the adjoining land. He states that a separate FIR No. 0011/2025 has also been registered at the instance of the Applicant against Respondent No. 3 and his mother for illegally trespassing on Applicant's land.

7. He states that the Applicant is a permanent resident of Delhi and therefore, he has approached this Court for interim protection against arrest so as to enable the Applicant to seek his legal remedies before the High Court of Allahabad qua FIR No. 0010/2025.

8. He relies upon the judgement of the Supreme Court in **Priya Indoria vs. State of Karnataka Ors.**¹ to maintain this application in the High Court of Delhi.

9. This Court has heard the submissions advanced by learned Senior Counsel appearing for the Applicant and perused the record.

10. The FIR no. 0010/2025 lodged by Respondent no. 3 at Police Station Kasganj, Uttar Pradesh itself records that Applicant was not present in the vicinity and the Respondent No. 3, complainant was allegedly threatened



and injured by some persons, who according to him were acting on behalf of the Applicant. The factum of dispute qua parcel of land between Respondent no. 3 and Applicant is also acknowledged in this FIR.

11. It is a settled principle of law as confirmed by Supreme Court in the case of **Priya Indoria** (Supra) that transit bail can be granted to an accused to enable him/her to approach the appropriate court in the State where the FIR is lodged. In the said case, the Supreme Court observed that the concept of transit bail ensures access to justice and safeguards the liberty of the accused, especially when the accused is residing in a different state from where the FIR has been registered. The relevant extract of the said judgement reads as under :-

“96. We shall now revert to our illustration given at the beginning of this judgment. In the illustration, we have stated that **if a person commits an offence in one State and the FIR is lodged within the jurisdiction where the offence was committed but the accused resides in another State he can approach the court in the other State and seek transit anticipatory bail of limited duration.** We have held that the accused could approach the competent court in the State where he is residing or is visiting for a legitimate purpose and seek the relief of limited transit anticipatory bail although the FIR is not filed in the territorial jurisdiction of the district or State in which the accused resides, or is present depending upon the facts and circumstances of each case. Conversely, the offence may be committed in one State, the FIR may be lodged in another State and the accused may reside in a third State. In which of the courts of the three States would the accused approach for grant of anticipatory bail? **We feel that having regard to the salutary concept of access to justice, the accused can seek limited transit anticipatory bail or limited interim protection from the court in the State in which he resides but in such an event, a “regular” or full-fledged anticipatory bail could be sought from the competent court in the State in which the FIR is filed.”**

(Emphasis Supplied)

¹ (2024) 4 SCC 749.



12. A coordinate bench of this Court in the case of **Akash Tanwar v. State of Delhi & Ors.**² relying on the Judgement of Supreme Court in **Sushila Aggarwal v. NCT of Delhi**³ has observed that approach of transit anticipatory bail and interim protection balances the fundamental right of life and personal liberty with the fundamental scheme of administration of criminal justice . The relevant extract of the said judgement reads as under :-

“28. The Hon’ble Apex Court in *Sushila Aggarwal v. NCT of Delhi* : (2020) 5 SCC 1, enunciated the approach of ‘transit anticipatory bail’ and ‘interim protection’ that balanced the right to life and personal liberty under Article 19(1)(d) of the Constitution of India with the fundamental scheme of administration of criminal justice, as prescribed in the CrPC. **The purpose of interim protection in the form of transit bail is to allow the accused to approach the appropriate Court that has jurisdiction over the matter.** It cannot be ignored that in an age where the movement of a citizen is frequent and fast, an offender may apprehend arrest even with respect to a complaint made by the complainant in one State, though the offended person may be residing in another State.”

(Emphasis Supplied)

13. Learned APP appearing for the State does not disputes that the Applicant resides at Delhi. The Applicant has filed his personal identification documents which show that he is a resident of Delhi.

14. In view of the facts noted hereinabove, this Court deems it appropriate to grant transit anticipatory bail to the Applicant for a limited period of two (2) weeks from today to enable the Applicant to avail its legal remedies before the High Court of Allahabad.

15. It is directed that in the event of arrest, the Applicant shall be released on bail on furnishing the personal bond in the sum or Rs. 25,000/- with one

² 2024:DHC:8099

³ (2020) 5 SCC 1



surety of the like amount subject to the satisfaction of the Arresting Officer/I.O./S.H.O. concerned. The Applicant is directed to approach the appropriate Court in Uttar Pradesh within the stipulated period of fourteen (14) days and seek further legal records as required.

16. It is made clear that nothing said in this order is an expression on the merits of this case.

17. Accordingly, the present Bail Application stands disposed of along with all pending applications.

18. The Order be given *dasti* under the signatures of the Court Master.

19. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

JANUARY 13, 2025/rhc