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

+ **BAIL APPLN. 441/2025**

SONU

.....Petitioner

Through: Ms. Praveena Gautam, Ms. Tissy Annie Thomas, Ms. Akaksha Tyagi, Mr. Ishaan Seth and Mr. Pawan Shukla, Advocates.

versus

STATE OF NCT DELHI

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for the State with SI Subhash, P.S.Chanakyapuri.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

19.02.2025

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1. Application under Section 483 read with Section 528 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* ('BNSS' hereinafter) has been filed for grant of Regular Bail in FIR No.199/2024 under Section 318 of *Bharatiya Nyaya Sanhita, 2023*, P.S.Chanakyapuri.
2. It is submitted that the Applicant is in judicial custody since 18.12.2024. The Applicant had applied for bail before the learned Sessions Court which has been denied *vide* Order dated 29.01.2025.
3. Brief facts as narrated in the Application are that the Complainant Ms. Sinead Byrne had called the Applicant, as an elderly dog named Mouthu needed medical attention. The Complainant paid ₹33,000/- to the Applicant for the purpose. On 22.10.2024 on the request of the Complainant, Applicant arrived with a Pet Ambulance



at the location and took the elderly dog to Sonadi Animal Care Centre for his treatment where he was admitted and was taken care of by Veterinary doctors. The blood sample of Mouthu was also taken. The blood samples of Mouthu were forwarded to Pet Path Lab for conducting the test which was duly done. The Applicant gave a continuous update on the health of the dog to the Complainant. Unfortunately on 15.11.2024, Mouthu's condition deteriorated about which the Complainant was informed. The video of Mouthu was also shared with the Complainant to update on his condition. For reasons beyond control of the Applicant, Mouthu passed away about which also the Complainant was informed and was asked to visit the Animal Centre. Subsequently, he was buried in the Animal Centre itself in the presence of the Complainant.

4. Thereafter, on 17.12.2024 a Complaint was filed at P.S.Chanakyapuri wherein the Complainant alleged that she had been cheated of her money by the Applicant who pretended to help sick dogs. FIR No.199/2024 under Section 318 BNSS was accordingly registered on 18.12.2024. The Complainant called the Applicant to her house where he was arrested by the Police without any Notice under Section 35(3) BNSS.

5. The Bail Application preferred before the learned Duty Magistrate was dismissed on 27.12.2024. The Bail Application before the learned Sessions Judge was dismissed on 29.01.2025.

6. Bail is sought on the ground that the Applicant had taken the dog at the behest of the Complainant for treatment at Animal Centre where he was taken care of by the Veterinary doctors. The Tests were



also conducted. An amount of Rs.33,000/- had been paid to the Applicant to facilitate the blood tests on Mouthu and for admitting him at the Animal Centre. The dog unfortunately died due to circumstances beyond the control of the Applicant. The averments made in the Complaint do not make out a case under Section 318 BNSS nor does it fall under any other Sub-Clauses of the Section. Moreover, it is a bailable and non-cognizable offence as per Schedule I of BNSS and he is entitled to be admitted to bail.

7. Furthermore, no Notice under Section 35(3) of BNSS was served upon the Applicant nor was he ever asked to join the investigations.

8. Reliance has been placed on Arnesh Kumar vs. State of Bihar, (2014) 8 SCR 128 wherein it has been held that the service of notice under Section 41A Cr.P.C is mandatory. It is further submitted that the Applicant was never concerned with the medical treatment of dog and no intention to cheat or defraud the Complainant as alleged and neither was it done. Admittedly the dog was admitted in Animal Centre by the Applicant on 22.10.2024. There is no prima facie case made out under Section 318 of BNSS.

9. It is further submitted that no fruitful purpose would be served in keeping the Applicant as he is the sole bread earner of the family which comprises of his wife and two small children. He undertakes to make himself available for interrogation. Hence, the prayer is made for grant of bail.

10. **Complainant has been served through IO** who has given in writing that she is unable to attend the Court but the Bail is opposed.



11. **The State has submitted the Status Report** wherein it is submitted that on the complaint, the FIR under Section 318 BNSS was registered after obtaining the Bank Statement which confirms the transfer of Rs.30,000/- to the account of the Applicant. Section 319(2) BNSS has been added to the FIR.
12. Report submitted by State about Execution of Notice to the Complainant is taken on record.
13. **Submissions heard and record perused.**
14. The **first thing** which is evident from the entire submissions is that the FIR was under Section 318 BNSS which is a bailable and a non cognizable offence. It is not comprehensible as to how the FIR got registered instead of following the Procedure under Section 134 BNSS. **Secondly**, it is a bailable offence under BNSS and there is no explanation as to why the bail had not been granted by the learned Trial Court.
15. The **Chargesheet has** already been filed on record. Learned Prosecutor has submitted that the offence under Section 319(2) BNSS of impersonation has been added on the basis of disclosure statement of the Applicant. But this again, is beyond the known canons of law as to how a disclosure statement of an accused becomes a basis for including the Section for impersonation.
16. Considering the totality of the circumstances as narrated above, the Petitioner is admitted to Regular Bail upon his furnishing a personal bond in the sum of Rs. 20,000/- and one surety of the like amount to the satisfaction of the learned Trial Court, subject to the following conditions: -



- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing;
- b) Petitioner shall provide his mobile number to the IO concerned, which shall be kept in working condition at all times;
- c) Petitioner shall inform the IO and the Jail Superintendent the address where he shall be available in Delhi;
- d) Petitioner shall not try to contact, threaten or influence any of the witnesses of this case; and
- e) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

17. The Registry is further directed to communicate this Order to the learned Trial Court and as well as to the concerned Jail Superintendent.

18. Accordingly, the present Petition is disposed of.

NEENA BANSAL KRISHNA, J

FEBRUARY 19, 2025

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