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

+ **BAIL APPLN. 602/2024***(disposed of case)*

SUNAINA

.....Petitioner

Through: Mr. Dinesh Kumar Sharma, Mr.
Manish Malik, Mr. Vikas Saini and
Mr. Jai Subhash Thakur, Advocates.

versus

THE STATE

.....Respondent

Through: Mr. Amit Ahlawat, APP.
SI Krishan Kumar, PS: Bawana.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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19.03.2025

CRL.M.A. 8308/2025 *(seeking restoration)*

1. Through this application, the Applicant seeks restoration of the bail application, which was dismissed in default for non-prosecution on 10th March, 2025.
2. For the grounds and reasons stated in the application, the same is allowed and the bail application is restored to its original number.
3. Disposed of.
4. With the consent of counsel for parties, the bail application is taken up for hearing today itself.

BAIL APPLN. 602/2024

5. The present application filed under Section 438 of the Code of



Criminal Procedure, 1973¹ seeks grant of anticipatory bail in the proceedings arising from FIR No. 497/2016 dated 21st November, 2016 registered at P.S. Bawana for the offences under Sections 384/506 of the Indian Penal Code, 1860.²

6. Briefly stated, the case of the Prosecution is as follows:

6.1 The present case was registered at PS Bawana, Delhi, based on the statement of Ms. Rajbala, wherein she alleged that Sunaina (the Applicant herein) had been falsely implicating her son, along with several other young men, in order to extort money from them. During investigation, Vineeta, (the Applicant in BAIL APPLN. 600/2024) who is the sister of Sunaina, has also been issued notice under section 41A of the CrPC.

6.2 During the course of investigation, it was brought to the notice of the Prosecution that, a quashing petition filed by the Applicant was pending before this Court, enclosing an affidavit on behalf of the Complainant, stating that she had no objections to the quashing of the impugned FIR. When the Complainant was questioned in this regard, she denied executing any compromise and also denied the signature on the affidavit filed before this Court. The specimen of signatures i.e., admitted signatures and photocopy of disputed affidavit were sent to FSL for expert opinion. However, FSL required the original affidavit, and not the photocopy in order to render an opinion.

6.3 Therefore, this Court *vide* order dated 09th April, 2024 issued a direction for transmission of the original affidavit dated 26th September, 2018 allegedly filed on behalf of the Complainant in CRL.M.C. 4987/2018

¹ “Cr.P.C”

² “IPC”



to FSL, Rohini, for rendering a report on the authenticity of the signatures.

6.4 Subsequently, this Court issued a reminder to the FSL for ensuring compliance of the aforesaid order. Further an intimation letter was also sent to the director of FSL Rohini regarding the FSL report of authenticity of the signatures.

7. Mr. Dinesh Kumar Sharma, Counsel for the Applicant, contends that the Applicant has been falsely and unjustly implicated in the present case and has no involvement in the alleged offence. He submits that the Applicant comes from a respectable family and has no prior convictions. He further states that although the present FIR was registered in 2016, the Applicant was only served a notice under Section 41-A Cr.P.C. in the first week of December 2023. The Counsel argues that there is no *prima facie* case against the Applicant and that she is ready and willing to cooperate with the investigation. In light of these circumstances, he requests that anticipatory bail be granted to the Applicant.

8. At the outset, a crucial aspect of the present case, that needs to be highlighted pertains to the Applicant's assertion regarding the Complainant's purported willingness to settle the matter and the alleged affidavit, filed on her behalf in this regard in the quashing petition (CrI.M.C. 4987/2018). In this context, the Trial Court, while rejecting the Applicant's request for anticipatory bail, specifically noted that the Complainant had denied both the authenticity of the affidavit annexed to the bail application as well as the signatures affixed on it. The Additional Public Prosecutor, informed the Trial Court that a comparison of the Complainant's signatures on the affidavit with those made before the Trial Court revealed that the signatures on the affidavit did not belong to the Complainant, suggesting



that the Applicant had submitted a false affidavit in an attempt to have the FIR quashed. In light of the foregoing, the Trial Court dismissed the Applicant's anticipatory bail application, *vide* order dated 13th February, 2024, with the following observations:

"Fresh reply filed by the IO.

Arguments on the bail application heard.

Ld. Counsel for the accused/applicant submitted that the applicant is not a previous convict and having no nexus with the commission of the alleged offence and has been falsely implicated in the present case. He further submitted that applicant has nothing to do with the alleged offence and has been implicated with ulterior motives. He submitted that applicant has never committed the alleged offence and the present FIR is an after thought. He further submitted that the present FIR has been lodged by the complainant just to tarnish image of the applicant. He submitted that the present FIR was registered in 2016 and the applicant has been involved in the present FIR by the complainant with evil motive. He further submitted that complainant has given an affidavit for quashing of the present FIR as they have settled the matter amicably. It is prayed by Ld. Counsel for accused that accused be granted anticipatory bail in the present case as she is ready to abide with any condition imposed by the court or to give direction to IO/SHO PS Bawana not to take coercive steps against applicant in the present FIR.

Ld. Addl. PP for State has strongly opposed the bail stating that the allegations levelled against applicant/accused are heinous in nature being punishable u/s384/389/506/34 IIPC and custodial interrogation of accused/applicant is required. He further argued that as per the reply filed by the IO, complainant submitted during investigation that she has never compromised the matter and never signed any such affidavit in that regard. He further submitted that investigation is still in progress qua the alleged forged signatures on the affidavit.

*On enquiry made by the Court regarding the aspect of settlement affidavit filed before the Hon'ble High Court, **the complainant stated that affidavit attached as annexure "C" with the present bail application and signatures appended at points A and B on the affidavit do not belong to her. Separate statement of complainant is recorded in this regard.***

Ld. Counsel for the accused/applicant submitted that the said affidavit was handed to him by Sh. Rajbir Singh Ld. Counsel for complainant in other case and that the complainant has even put appearance in the Mediation proceedings before the Hon'ble High Court on the basis of the aforesaid affidavit bearing her signatures. Ld. Counsel. for the accused/applicant has filed ordersheets dated 24.10.2019, 06.02.2020 and 14.12.2023 of the Hon'ble High Court in the CrI. MC



4987/2018 reflecting the presence of complainant and her son Sh. Manoj, who is present in the court today also.

Ld. Addl. PP for the State submitted that the comparison of the signatures of the complainant present on the said affidavit with the signatures made today shows that the signatures on the affidavit do not belong to the complainant. He further argued that the interim protection had been granted to the accused keeping in view the aspect of pendency of the quashing petition wherein the said false affidavit was filed.

Record shows that the investigation in the present case is at the initial stage and the accused is alleged to have committed extortion which is a grave offence. Furthermore, a grave doubt has arisen on the very authenticity of the affidavit filed in the quashing petition which requires detailed inquiry/investigation.

Considering the present facts and circumstances of the case as well as the initial stage of investigation, this court is not inclined to grant the anticipatory bail to the applicant/accused at this stage.

Accordingly, the application stands disposed of with the direction to the SHO concern to file a detailed report with the concerned Ld. MM with respect to the authenticity of the aforesaid affidavit and to apprise the Hon'ble High Court of Delhi regarding the proceedings conducted today.

Nothing stated hereinabove shall tantamount to expression of opinion on the merits of the case."

[Emphasis supplied]

9. In this regard, on 9th April, 2024, this Court was also apprised about Complainant disputing her signatures on the affidavit and her categorical denial of compromising the matter. However, the Applicant insisted that the settlement was genuine and that the investigation in this regard was pending. The APP for State submitted that the investigation into the authenticity of the signatures was not proceeding as the FSL was unable to render an opinion without the original affidavit. Accordingly, this Court directed the transmission of the original affidavit dated 26th September 2018, allegedly filed by the Complainant, in CrI. MC. 4987/2018 to the FSL, to conduct an examination of the signatures on the affidavit and submit a report. Subsequently, on the receipt of the FSL report, this Court issued the following directions on 11th December, 2024:



“1. The present petitions have been filed for grant of anticipatory bail in case bearing FIR 497/2016 Dated 21.11.2016 registered u/s 384/506 IPC at PS: Bawana.

2. This Court vide order dated 19.02.2024 passed an order that no coercive actions be taken against the Applicants, subject to their continuing to join the investigation.

3. Vide order dated 09.04.2024, the Court noted that anticipatory bail application moved before the Trial Court shows that one of the grounds taken by the applicants was that a quashing petition was filed in this Court being CRL.M.C. 4987/2018 titled ‘Sunaina v. State and Anr.’ wherein the complainant was stated to have filed an affidavit in support of the petition giving no objection to the quashing of the FIR. Before the Trial Court, complainant however disputed her signatures on the affidavit and stated that she had never compromised the matter or signed on the affidavit. However, the petitioner insisted that the complainant had settled the matter.

4. This Court taking into account this controversy sent the original affidavit in CRL.M.C. 4987/2018 to the FSL and directed that a report be filed in a sealed cover to the Registrar General of this Court. In the meanwhile, CRL.M.C. 4987/2018 was dismissed and withdrawn on 01.04.2024.

6. Perusal of the FSL report dated 30.04.2024 states “**the aforesaid divergences are fundamental in nature and beyond the range of natural vibrations and intended disguise and when considered collectively indicate that the person who wrote the red enclosed signatures stamped and marked SI to S5 & A1 to A10 did not write the red enclosed signatures similarly stamped and marked Q1 to Q2.**”

7. Learned APP for the State submits that in view of the FSL report, the interim protection granted to the petitioner against the contemplate may not be continued.

8. On behalf of the petitioner, an adjournment has been sought as main counsel is not available today.

9. In view of the FSL report, the Court considers that the interim protection granted to the petitioner cannot be continued, hence the interim protection granted vide order dated 09.02.2024 stands withdrawn.

10. In view of the fact that an accommodation has been asked for by learned counsel for the petitioner on the ground that main counsel is not available, list on 10.03.2025.”

10. A *prima facie* conclusion can be drawn from the FSL report that the signatures on the affidavit, which the Applicant had relied upon to persuade the Court that the parties had jointly filed a quashing petition, were not those of the Complainant. It bears emphasising that the Prosecution as well as the



Complainant had both consistently maintained that the signatures on the affidavit did not belong to the Complainant. However, the Counsel for Applicant insisted that the signatures affixed to the original affidavit were genuine. The Applicant has specifically stated in the present petition that a quashing petition (Crl. MC. 4987/2018) was pending before this Court, clearly attempting to take benefit of the same, to seek pre-arrest bail. However, according to the FSL report, the signatures on the affidavit are not those of the Complainant. In light of this development, it *prima facie* appears that the Applicant has grossly abused the process of law by submitting a false affidavit, misrepresenting that the Complainant had consented to the quashing of the FIR registered against her. Such attempts to mislead the Court constitute a clear abuse of the judicial process. Although, the Applicant has also raised other grounds for seeking pre-arrest bail, it is well-established that courts may decline to exercise their discretion in favor of an applicant, if the application is lacking *bona fides*.³ The Supreme Court has consistently ruled that a party misleading the court, is not entitled to any relief from the court.⁴ In light of these circumstances, the Court is not inclined to grant anticipatory bail to the Applicant, as it cannot condone actions that compromise the integrity of legal proceedings, and amount to an abuse of the legal process.

11. Accordingly, the Court finds no merit in the present application, and the same is dismissed.

12. Before parting, this Court notes that the Trial Court in its order dated

³ Order dated 10th June, 2022 passed in CRM-M-26229-2022 (O&M) titled *Deen Mohd. V State of Haryana*

⁴ *Hari Narain vs. Badri Dass*, AIR 1963. S.C. 1558. See also: *Welcome Hotel vs. State of Andhra Pradesh*, (1983) 4 SCC 574



13th February, 2024 had directed the concerned SHO to file a detailed report with the concerned Metropolitan Magistrate with respect to the aforesaid affidavit. As the FSL report has now been received, the concerned IO is directed to apprise the concerned Metropolitan Magistrate of the FSL report.

13. With the above direction, the present application is dismissed.

SANJEEV NARULA, J

MARCH 19, 2025
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