



\$~48

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

Date of decision: 18.02.2025

+ **BAIL APPLN. 712/2025 & CRL.M.A. 5143/2025**

RAMAN DEEP SINGHApplicant

Through: Mr. Ashish Jhamb, Mr. Raunaq Dalal,
Advocates

versus

STATE NCT OF DELHIRespondent

Through: Mr. Laksh Khanna, APP for the State
with SI Deep Ram Sharma, P.S. Anand
Parbat

%

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This is an application filed seeking the following prayer: -

“Grant anticipatory bail to the Applicant in relation to FIR No. 519/2024 registered under section 118(1) BNS and section 118(2) BNS added later on, at P.S.- Anand Parbat.”

2. The brief facts relevant for the adjudication of the present application are that the FIR No. 519/2024 was registered based on a complaint by Aman, who alleged that on 31.10.2024 he was celebrating Diwali with friends on the streets. It is stated in the FIR that during the early hours of 01.11.2025, at around 3:30 A.M., the complainant and the Applicant, who reside in the same neighbourhood, engaged in a heated argument over bursting of fire crackers



by the complainant. It is stated in the FIR that the argument escalated into a physical assault, during which the Applicant attacked him. It is stated that complainant attempted to go home, however; he was allegedly attacked from behind by the Applicant with a sharp object. It is stated in the FIR that complainant was subsequently taken to RML Hospital by his family, where his statement was recorded, and the subject FIR was registered.

3. It is stated in the captioned application that initially the subject FIR was registered under Section 118(1) of the Bharatiya Nyaya Sanhita, 2023 (BNS) however, after receiving the Medico-Legal Case (MLC) report, which recorded the injury as grievous, Section 118(2) of BNS was added. It is stated that a notice dated 23.12.2024 was issued to the Applicant by the Investigating Officer (IO), informing him of the addition of Section 118(2), which prescribes punishment up to life imprisonment. It is stated that the IO further notified the Applicant that, as per the Judgement of Supreme Court in **Arnesh Kumar v. State of Bihar**¹, the offense is not covered under the guidelines preventing immediate arrest, making the Applicant liable for arrest under the subject FIR.

4. It is stated in the application that apprehending the arrest, the Applicant filed an application registered as Bail Application No. 7795/2024 before ASJ (FTSC) RC-01, West, This Hazari Courts, Delhi, (Trial Court) seeking anticipatory bail, which was rejected vide order dated 09.01.2025. It is stated in the application that Applicant again approached the Trial Court seeking anticipatory bail vide Bail Application No. 200/2025 however, the same was also dismissed vide order dated 28.01.2025.

¹ (2014) 8 SCC 273.



5. Learned counsel for the Applicant states that the incident is dated 01.11.2024 and the Applicant had duly joined the investigation.
6. He states that the FIR was initially registered under Section 118(1) of BNS. However, after receiving the Medico-Legal Case (MLC) report, which recorded the injury as grievous, Section 118(2) of BNS has been added. He states that due to the addition of Section 118(2) of BNS, the Applicant is apprehensive about being arrested.
7. He states that in the FIR the complainant has alleged that he was attacked from behind whereas the injuries suffered by him are on the front of his torso, which could have only been caused if he was attacked from the front. Therefore, there is a material inconsistency in the initial statement of the complainant and the MLC report.
8. He states that though it is a fact that Applicant was present at the site on the relevant date and time however the allegations levelled by the complainant are specifically denied. He states it was the complainant who was a miscreant bursting fire crackers in violation of the ban. He states the Applicant has been falsely implicated.
9. He states that the Applicant remains ready to join the investigation and, considering his young age, he may be granted anticipatory bail. He states that the Applicant and the complainant are otherwise friends and have travelled together on holidays; therefore, there could not have been any intent on the Applicant's part to cause harm to the complainant.
10. Issue notice. Learned APP accepts notice.
11. He states that the subject FIR was registered on 01.11.2024 at 3:40 A.M., and the complainant named the Applicant/accused in the FIR. He further states that the complainant sustained injuries in the middle of the night



at about 03:30 A.M. and was taken to RML Hospital, where he duly informed the I.O that he had been injured in an assault by the Applicant/accused.

12. He states that the complainant suffered multiple stab wounds, including injuries above the eye, upper back, and upper arm. He further states that the doctor, in the MLC, has specifically noted an opinion that the injury sustained is grievous, therefore, the ingredients of Section 116 clause (h) of BNS are duly attracted in the facts of this case.

13. He states that the custodial interrogation of the Applicant is required as the weapon of offence i.e. iron strip has not been recovered.

14. He states on instructions from the I.O. that the location of the crime scene does not have any CCTV coverage; however, there is no dispute that Applicant was present at the scene of crime and this fact is admitted in the bail application itself.

15. He states that Applicant's first bail application was dismissed by the Trial Court on 09.01.2025 and the Applicant has since then evaded his arrest.

16. This Court has considered the submissions of the parties and perused the record.

17. The Supreme Court in the Judgment of **State of M.P. v. Pradeep Sharma**² wherein Supreme Court while considering the power of this Court under Section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.) now Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) Supreme Court opined that the mere apprehension of arrest is not a ground for granting relief under Section 438 Cr.P.C., it was held that the relief must be granted in an exceptional case where the Court is satisfied that the person

² (2014) 2 SCC 171



has been falsely implicated and would not misuse the liberty granted. The relevant extract of the said Judgement reads as under :-

“14. In order to answer the above question, it is desirable to refer to Section 438 of the Code which reads as under:

“438. Direction for grant of bail to person apprehending arrest.—(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that court may, after taking into consideration, inter alia, the following factors, namely—

- (i) the nature and gravity of the accusation;
- (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
- (iii) the possibility of the applicant to flee from justice; and
- (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.”

The above provision makes it clear that the power exercisable under Section 438 of the Code is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his liberty.”

(Emphasis Supplied)



18. The provisions of Section 482 BNSS are identical to erstwhile Section 438 of the CrPC and therefore, the ratio laid down in the Judgement of **State of M.P. (Supra)** continues to remain relevant while exercising this jurisdiction.

19. It would also be appropriate to refer to the Judgment of Supreme Court in **Sumitha Pradeep v. Arun Kumar C.K.**³, wherein Supreme Court held that where no case for custodial interrogation is made out by the prosecution, cannot by itself be a ground for grant of an anticipatory bail. The Apex held as under: -

12. ...There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

(Emphasis Supplied)

20. In the facts of this case, Applicant has failed to make out the case that he has been falsely implicated in the Subject FIR. The Applicant does not dispute that there was indeed a heated argument between the Applicant and

³ (2022) 17 SCC 391



the complainant on the fateful night of 31.10.2024 when the complainant was injured. There is no dispute that the complainant has suffered injuries which have been opined in the MLC as grievous. Further the complainant was attacked by the assailant several times as he suffered stab injuries. The allegations levelled by the complainant are serious and would certainly require investigation. The complainant is an injured witness and he named the Applicant in the FIR at the first instance and, therefore, at this stage this Court has no reason to believe that the Applicant has been falsely implicated (**Re: Baljinder Singh @ Ladoo v. State of Punjab**⁴). The prosecution has put up a prima facie case against the Applicant herein. Thus, at this stage when the investigation is ongoing and the weapon of offence is yet to be recovered, the Applicant's conduct in failing to join investigation and evading the arrest as noted by the Trial Court in its order dated 28.01.2025, fail to justify his prayer for grant of anticipatory bail.

21. Accordingly, this Court finds no merit in the application, and the same is dismissed along with all pending applications.

MANMEET PRITAM SINGH ARORA, J
FEBRUARY 18, 2025/mt/AKT

Click here to check corrigendum, if any

⁴ 2024 SCC OnLine SC 2622