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

+ **BAIL APPLN. 969/2025**

NISHANT PANDEY

.....Petitioner

Through: Mr. Abdul Gaffar and Mr. Nakul
Sharma, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with Ms. Neha Bana, SI.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **01.05.2025**

1. The present application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023¹ seeks pre-arrest bail in FIR No. 0405/2024 registered at P.S. Karawal Nagar for the offences under Sections 64(1)/140/123/351/337/3(5) of the Bharatiya Nyaya Sanhita, 2023.
2. The FIR was lodged by the Prosecutrix, alleging that on 25th November, 2024, she was approached by one Bablu outside her coaching centre. Bablu was accompanied by the present Applicant, Nishant. Bablu repeatedly requested her to accompany him. Upon his continued insistence, she agreed to sit on his motorcycle with Bablu and Nishant. She further alleged that shortly after consuming an ice cream offered by Bablu, she lost consciousness. Upon regaining her senses, she found herself in an unfamiliar location, which was later revealed to be Bablu's residence in Gaya, Bihar. It



is alleged that Bablu, during this period, subjected her to non-consensual sexual intercourse and forcibly solemnised a marriage with her. These events culminated in the registration of the present FIR.

3. Counsel for the Applicant submits that the Applicant, a 22-year-old student, was merely a mutual acquaintance of both the Prosecutrix and co-accused Bablu, and had no role in the alleged sexual assault or coercion. It is stated that the Applicant's involvement was limited to accompanying the two individuals at the time of their departure from Delhi and, at most, facilitating their purported marriage in Gaya. It is further submitted that Bablu, the principal accused against whom graver allegations have been levelled, has already been granted anticipatory bail by the Sessions Court *vide* order dated 15th January, 2025. The Applicant, it is contended, has no prior criminal antecedents and poses no risk of absconding or tampering with evidence. On these grounds, anticipatory bail is sought.

4. The Court has considered the submissions of the counsel for the Applicant, Mr. Mukesh Kumar, APP for the State, as well as counsel for the Prosecutrix. As per the FIR, the specific allegation against the Applicant is limited to his role in facilitating the departure of the co-accused Bablu and the Prosecutrix from Delhi. There is no allegation of direct participation in the alleged act of sexual assault, nor any claim that the Applicant exercised control over the Prosecutrix at any stage thereafter.

5. On the previous date of hearing, the Court had directed the Applicant to join the investigation. It has been confirmed by Mr. Mukesh that the Applicant has duly appeared before the Investigating Officer in compliance with the said direction. The Court has also been informed that the main

¹ "BNSS"



accused, Bablu, has since been granted anticipatory bail by order dated 15th January, 2025. Furthermore, the Prosecutrix, who is present in person before the Court, has stated that she has no specific grievance or objection in relation to the Applicant and does not oppose the present application for bail.

6. The Supreme Court has repeatedly emphasized that the provision of anticipatory bail, under Section 438 Cr.P.C., is rooted in Article 21 of the Constitution, which guarantees personal liberty. This calls for a liberal interpretation of the provision, upholding the fundamental principle that every individual is presumed innocent until proven guilty. Section 438 aims at protecting the personal liberty of an individual, who, at the time of seeking anticipatory bail, has not been convicted of the alleged offence and is entitled to the presumption of innocence.² In the present case, it is imperative to emphasize that the Applicant is a 22-year-old student with no criminal antecedents, who has duly cooperated with the investigation. It is further noted that the main accused has already granted anticipatory bail by the Sessions Judge, and that the Prosecutrix has not expressed any objection to the present application. Accordingly, in the totality of circumstances, the Court finds it to be a fit case for the grant of anticipatory bail. The application is, therefore, allowed.

7. The Applicant, in the event of arrest, is directed to be released on bail on furnishing a bail bond for a sum of INR 25,000/- with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

² Gurbaksh Singh Sibbia and Others v. State of Punjab, (1980) 2 SCC 565; Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694.



- a. The Applicant shall join and cooperate with the investigation as and when directed by the IO;
 - b. The Applicant shall not leave the boundaries of the country without informing the IO/ SHO concerned;
 - c. The Applicant shall not contact the witnesses or tamper with the evidence in any manner;
 - d. The Applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
 - e. The Appellant shall not indulge in any criminal activity and shall not communicate with or come in contact with the Complainant/Prosecutrix or any member of the Complainant/Prosecutrix's family in any manner.
8. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
9. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application, and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.
10. The application is allowed in the aforementioned terms.

SANJEEV NARULA, J

MAY 1, 2025

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