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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1878/2023

JAHAN ARA

.....Petitioner

Through: Mr. Madhav Khurana, Senior
Advocate with Mr. Nishant Awana,
Ms. Rini Badoni, Ms. Nitya Sharma
& Ms. Shaurya Singh, Advocates

versus

STATE (G.N.C.T OF DELHI)

.....Respondent

Through: Mr. Tarang Srivastava, APP for the
State.
SI Jainvind Kumar, P.S.: Jamia
Nagar.
Mr. Anil Panwar, Mr. Aman Qayoom
Wani and Ms. Tanishqa Panwar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

24.01.2025

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By way of the present petition filed under section 438 of the Code of Criminal Procedure 1973, the petitioner seeks anticipatory bail in case FIR No.SED-JN-000217/2023 dated 21.03.2023 registered under sections 380/457/34 of Indian Penal Code 1860 ('IPC') at P.S.:e-Police Station, Jamia Nagar, South East.

2. Notice on this petition was issued on 30.05.2023, pursuant to which Status Reports dated 16.10.2023 and 26.04.2024 have been filed.
3. Mr. Madhav Khurana, learned senior counsel appearing on behalf of the petitioner argues that the complainant/Nilofer Siddiqui has frivolously filed the subject FIR only to give a criminal colour to a pre-existing civil dispute between the parties, by alleging theft of her



articles and belongings from property bearing No. D-26, Plot No. 37, Zakir Nagar West, Jamia Nagar ('Jamia Nagar property') on 23.02.2023. It is pointed-out that the complaint on which the subject FIR has been registered is cryptic; does not name the petitioner, or for that matter anyone; and does not even give a broad description of the articles or belongings that are alleged to have been stolen from the complainant's premises. The complaint reads as under :

"I, Nilofer Siddiqui (D/O) Lt. Salauddin Siddiqui, report the theft of my article(s)/belonging(s) from D-96, Plot No. 37, Zakir Nagar West, Jamia Nagar, New Delhi between 20:00 and 20:00 on 23/02/2023."

4. In this regard, learned senior counsel draws attention to a copy of the civil suit filed by the petitioner (as plaintiff) against the complainant (as defendant) on 27.09.2022 *i.e.*, prior to filing of the subject FIR, whereby the petitioner had claimed permanent and mandatory injunctions and other ancillary reliefs in relation to 04 properties in Delhi, including the Jamia Nagar property. It is pointed-out that the complainant had filed Written Statement dated 13.02.2023 in the said suit; and *vide* order dated 11.10.2022 passed in the said suit, the learned Senior Civil Judge, Saket Courts, New Delhi had directed *all parties* to maintain *status-quo* in respect of the title and possession of the subject properties.
5. Mr. Khurana submits that the petitioner was constrained to file the said injunction suit to thwart the complainant's attempt to enter upon those properties. In support of this submission, learned senior counsel



has drawn attention to certain photographs appended to the present petition.

6. *Ergo*, learned senior counsel argues, that the subject FIR was registered much after the civil suit had been filed by the petitioner on 27.09.2022; *status-quo* had been directed by the civil court by its order dated 11.10.2022; and the complainant had even filed a written statement in that suit on 13.02.2023.
7. Furthermore, Mr. Khurana submits, that though the complainant alleges theft of her articles from the Jamia Nagar property on 23.02.2023, she does not make any allegation of trespass or other offence(s) in relation to the said property. It is also pointed-out that the subject FIR was registered “*through web application*” using the e-mail ID ‘*hajialam.alam@gmail.com*’, i.e. using the e-mail ID of some third person, and no investigation has been conducted in relation to the credentials of that person.
8. Opposing the grant of anticipatory bail, on the other hand, Mr. Tarang Srivastva, learned APP appearing on behalf of the State has argued that the conduct of the petitioner and her son has been suspicious inasmuch as, both the petitioner and her son have been residing in Australia for the last about 20 years and they returned to India only after the demise of Dr. Salauddin Siddiqui, perhaps with the intention of grabbing the property and assets of the deceased. Learned APP submits, that the Investigating Officer is given to understand that the petitioner was divorced from Dr. Salauddin Siddiqui.
9. It is further argued that even the nationality of the petitioner (and her son) needs to be verified, since according to the Investigating Officer,



both of them hold Australian passports but are also carrying Aadhaar Cards, which would be impermissible for a foreign citizen. Accordingly, learned APP stresses that if granted relief, the petitioner is likely to be a flight risk.

10. It is also submitted that the mere pendency of a civil suit filed by the petitioner is no reason to take the allegation contained in the subject FIR lightly.
11. Upon a conspectus of the circumstances obtaining in the matter, and without commenting on the on-going investigation, the following aspects prevail with the court:
 - 11.1. The substratum of the subject FIR is clearly a civil dispute, which is already pending adjudication by way of a civil suit filed by the petitioner against the complainant;
 - 11.2. The petitioner is not even named in the subject FIR;
 - 11.3. The complaint on which the subject FIR has been registered does not give any reference, even in a general way, of the articles or belongings that the complainant claims have been stolen from her premises; and
 - 11.4. The parties involved are relatives, and the genesis of their dispute seems to be whether the petitioner is a '*divorced wife*' or '*one of the wives*' of late Dr. Salauddin Siddiqui.
12. Accordingly, in the opinion of this court, this is not a case where custodial interrogation of the petitioner would be necessary.
13. As a sequitur to the above, the present anticipatory bail petition is allowed; and it is directed that in the event of her arrest, the petitioner



shall be released on bail by the Investigating Officer/Arresting Officer subject to the following conditions:

- 13.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with 01 surety in the like amount from a family member, to the satisfaction of the Investigating Officer/Arresting Officer;
- 13.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- 13.3. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 13.4. The petitioner shall not travel out of the country *without* at least a 01-week *prior* written intimation to the Investigating Officer.
14. Needless to add that nothing in this order will be construed as an expression of opinion on the merits of the matter.
15. The petition stands disposed-of in the above terms.
16. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 24, 2025/ss