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

+ **BAIL APPLN. 1617/2024**

SMT. RAJESH

.....Petitioner

Through: Ms. Namita Roy and Ms. Gopa
Biswas, Advocates.

versus

STATE OF GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP.
SI Deepak, PS: Dabri.

+ **BAIL APPLN. 1636/2024**

SMT. KABITA HALDAR

.....Petitioner

Through: Ms. Namita Roy and Ms. Gopa
Biswas, Advocates.

versus

STATE OF GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP.
SI Deepak, PS: Dabri.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
03.02.2025

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1. The Applicants, through the instant applications, seek pre-arrest bail in FIR no. 239/2014 dated 16th April, 2024 under Sections 406/420 of the Indian Penal Code, 1860 at PS: Dabri. The case of the prosecution is as follows:

1.1 The Complainant (Mr. Sahil), claims to be the lawful owner of three



pet dogs—two beagles and one Pekingese—which he has raised with care and affection. He alleges that on 26th February, 2024, the accused persons forcefully entered his residence and took away his dogs without his consent. Upon confrontation, the accused persons identified themselves as members of NGO named ‘People for Animal’ but failed to produce any identification or authorisation. The Complainant immediately called the police helpline. A PCR unit arrived at the scene and escorted both the accused persons and the dogs to the Dabri police station, directing the Complainant to be present there as well. However, at the police station, the accused persons failed to furnish any valid documentation substantiating their authority to remove the pets. Instead, they merely handed over a signed piece of paper, devoid of any official address or identification details. They further falsely alleged that the pets had been subjected to mistreatment.

1.2 On the other hand, on 27th February, 2024, the Complainant discovered a video depicting his dogs tied up at an undisclosed location. Upon tracing one of the accused persons, Ms. Kabita, he attempted to confront her at her residence, but she refused to open the door and, instead, allegedly misbehaved with him.

1.3 In view of the above, the case was registered and an investigation was undertaken. On 02nd July, 2024, one of the Petitioners, Kabita Haldar, produced copies of clinical records from Sanjay Gandhi Animal Care Centre, purportedly related to all three dogs. However, these records lacked the signature of a veterinary doctor or an official stamp, raising doubts regarding their authenticity. The records allegedly revealed that one of the beagles was admitted by the Applicant herself, while the other beagle was admitted by one Anita Sharma, and the Pekingese dog was admitted by an



individual named Neetu Raturi.

1.4 During further investigation, when the Investigating Officer reached Sanjay Gandhi Animal Care centre to recover the missing dogs, the officials at the Centre informed him that the dogs were undergoing medical treatment and had been sent to another facility for dialysis.

2. In response to the allegations, counsel for the Petitioners contends that the Applicants acted in good faith, solely with the intent of ensuring the well-being of the animals. She submits that the Applicants are animal welfare activists associated with the NGO 'People for Animals' and had no ulterior motive or *malafide* intent. According to her, the Complainant is a commercial breeder, and when the Applicants observed the distressed condition of the dogs, they felt compelled to intervene. She further alleges that the Applicants had received oral complaints from neighbours about the Complainant's mistreatment of the dogs. It is also argued that the dogs were neither sterilized nor vaccinated, and were allegedly being kept in unhygienic conditions, necessitating immediate action for their welfare.

3. Against this backdrop, counsel states that on 26th February, 2024, the Applicants, along with other volunteers from the NGO, called the PCR to report the alleged cruelty. It was only pursuant to police intervention and under their directions that the Applicants removed the dogs and transported them to the police station.

4. Mr. Amit Ahlawat, APP for the State, strongly opposes the instant applications. He submits that, contrary to the Petitioners' assertions, no complaint regarding the alleged cruelty was ever made to the police prior to the removal of the dogs. He contends that the Applicants unlawfully entered into the Complainant's premises, forcibly took possession of his dogs, and



subsequently gave them up for adoption to third parties, without the Complainant's consent.

5. The court has considered the submissions advanced by the parties. The dispute in the present case revolves around the custody and welfare of three pet dogs. While the Complainant alleges that the dogs were unlawfully taken from him, the Applicants contend that they acted in good faith, believing that the dogs were being mistreated and required urgent care.

6. As far as the custody of the dogs is concerned, this Court had already issued directions on 19th September, 2024, clarifying that the issue would be determined by the Trial Court. The relevant portion of the order is extracted below:

“The present applications have been filed under Section 438 Cr.P.C. r/w with Section 482 Cr.P.C. seeking grant of anticipatory bail in case FIR no. 239/2024 registered under Section 420/406 IPC at PS: Dabri.

The learned counsel for the complainant submits that, as per instructions, the pet dogs taken away from the complainant are unwell and undergoing dialysis. He also submits that the petitioners are refusing to return the pet dogs to the complainant on one pretext or another. The Investigating Officer (IO) further submits that on 19.09.2024, when they visited the home of Smt. Kabita Halder, the house was locked from the inside and not opened.

The learned counsel for the petitioner submits that the pet dogs are with Smt. Kabita Halder, and she is willing to hand them over, provided they are kept in good condition.

Let the issue regarding the custody of the pet dogs be decided by the learned Trial Court. The complainant may file an appropriate application before the learned Trial Court, which shall decide the matter in accordance with the law after giving notice to the learned counsel for the petitioners.

List on 16.12.2024.

In the meantime, interim protection to continue, till the next date of hearing.”

7. Despite the aforementioned directions, no application was filed by the Complainant before the Trial Court. Consequently, further directions were



issued on 16th December, 2024, which reaffirmed that the issue of custody must be adjudicated by the Trial Court. The order stated:

“Learned counsel for the complainant at the outset submits that in terms of order dated 19.09.2024, no application has been moved before the learned Trial Court.

Let the appropriate application be moved before the learned Trial Court.

Learned Trial Court is requested to decide the same expeditiously in accordance with the law in terms of order dated 19.09.2024.

List on 03.02.2025.

In the meantime, interim protection be continued subject to the petitioner joining the investigation.”

8. Given that the issue of custody is already pending consideration before the Trial Court, and no urgent circumstances have been brought to this Court’s attention that would necessitate custodial interrogation, the Court finds no justification for denying anticipatory bail to the Applicants. The allegations, though serious, pertain to the welfare of animals rather than offences involving personal harm or grave economic fraud, making custodial interrogation unnecessary at this stage.

9. Furthermore, on 08th May, 2024, the Court had directed Applicants to join investigation. The Court is informed that they have indeed complied with the said directions and appeared before the Investigating Officer. Counsel for the Petitioners has assured that they will continue to remain cooperative in investigation and shall appear before the Investigating Officer, as and when called upon. The Supreme Court has repeatedly emphasized that the provision of anticipatory bail, under Section 438 CrPC, 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 of the CrPC 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.¹ In accordance with the said guidelines, and considering that the Applicants have no prior antecedents and have joined the investigation, their request for grant of anticipatory bail is allowed.

10. In light of the foregoing the court is inclined to grant pre-arrest bail to the Applicants. It is directed that in the event of arrest, the Applicants shall be released on bail on furnishing a bail bond for a sum of ₹25,000/- (each) with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The Applicants shall join and cooperate with the investigation as and when directed by the IO;
- b. The Applicants shall not leave the boundaries of the country without informing the IO/ SHO concerned;
- c. The Applicants shall not contact the witnesses or tamper with the evidence in any manner;
- d. The Applicants shall give their mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;

11. In the event of there being any FIR/DD entry / complaint lodged against the Applicants; it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

12. 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

¹ 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.



the merits of the case.

13. The applications are allowed in the afore-mentioned terms.

FEBRUARY 3, 2025
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SANJEEV NARULA, J