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

+ **BAIL APPLN. 2141/2025**

SALMAN

.....Petitioner

Through: Mr. B.S. Chowdhary, Ms. Sneh Lata
Rana and Ms. Monika, Advocates.

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Hitesh Vali, APP with SI
Narender Singh, PS-Chandni Mahal.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

10.07.2025

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1. This is a petition under Section 438 Cr.P.C/ Section 482 BNSS, 2023 for the grant of anticipatory bail, filed on behalf of petitioner in case FIR No. 429/2023, under Sections 307/385/506/120B/34 IPC, registered at Police Station Chandni Mahal.
2. Learned counsel appearing for the petitioner submits that no overt/specific role has been attributed to the petitioner by the injured Anas or any other person, except of exhortation, while the co-accused Nafees @ Haddi tried to inflict the injury on the face of injured Anas with the surgical blade. He further submits that injured has since been discharged from the hospital on 07.11.2023.
3. It is further submitted that proclamation under Section 82 Cr.P.C. has been executed at a wrong address i.e. House No. 632, 2nd Floor, Rang



Mahal, Chandni Mahal, Delhi, which does not belong to the petitioner. According to learned counsel, the correct address of the petitioner is House No. 1211, Rakabganj, behind Delite Cinema, Delhi-06. It is, thus, submitted that proclamation has not been duly executed. He further submits that involvement of the petitioner in some other case cannot be a ground for denying bail to him. He further states that petitioner is ready and willing to join the investigation, as and when directed.

4. Learned APP appearing for the State has handed over the status report in Court today. The same is taken on record.

5. Bail application has been opposed by learned APP, arguing that applicant is actively involved in planning and commission of offence with which he has been charged. He further states that petitioner has been deliberately evading his arrest since process under Section 82 Cr.P.C has been duly executed at the correct address of the petitioner. He further states that address mentioned in the bail application belongs to the brother of the petitioner, named, Mohsin. It is argued that there are chances of the petitioner absconding and evading the trial, once granted bail.

6. As per the prosecution version, co-accused Mohd. Irfan, Mhd. Gayasuddin @Gayas and Mohd. Rehan along with their associates gave neck and fist blows to Mohd. Tahir and attacked him with a bat and when Anas, nephew of complainant tried to intervene, Mohd. Irfan, Mohd. Rehan and their associates hit a wooden bat on the head of Anas, as a result of which he suffered injuries. Mohd. Rehan and his associates including the present petitioner then went to the hospital and at the exhortation of the present petitioner, Mohd. Rehan attacked Anas with a surgical blade with a view to kill him.



7. Admittedly, petitioner has not joined the investigation and process under Section 82 Cr.P.C has already been executed *qua* him and he has been declared a proclaimed offender. The Hon'ble Supreme Court in ***Srikant Upadhyay and Others vs. State of Bihar and Another*** [2024 SCC OnLine SC 282], while dealing with power to grant anticipatory bail observed as follows:-

“24. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

8. The petitioner has not challenged the orders of issuance of proclamation against him. The Investigating Agency has already verified his address to be the same on which the proclamation was issued. The present case is, therefore, not one of the exceptional cases where pre-arrest bail should be granted to the petitioner.

9. Keeping in view the nature and gravity of allegations and the fact that petitioner is not assisting the investigating agency in the investigation of the case, and has been declared proclaimed offender, in my view this is not a fit



case for the grant of pre-arrest bail to the petitioner.

10. The application is, therefore, dismissed.

RAVINDER DUDEJA, J

JULY 10, 2025/vd