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

% ***Date of decision: 12th August, 2025***

\+ **BAIL APPLN. 2659/2025**

RAJIV KUMAR SONI .....Petitioner

Through: Mr. Lal Singh Thakur and Mr. Aman Gahlot, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Utkarsh, APP for the State with SI Neeraj, PS Kotwali.
Mr. Nitin Joshi and Mr. Harsimran Singh, Advocates for Complainant.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T *(oral)*

1. First Anticipatory Bail Application under Section 482 read with Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) has been filed on behalf of the Applicant ***Rajiv Kumar Soni*** for grant of Anticipatory Bail in e-FIR No. 80061719/2025 registered under Sections 303(.2)/316(4) BNS at P.S. Kotwali.

2. It is submitted that the Applicant has been falsely implicated by the Complainant Vijay Kapoor in the present e-FIR. The Anticipatory Bail Application presented before the learned ASJ has been dismissed *vide* Order dated 03.07.2025 without appreciating the actual facts and circumstances.

3. *The brief facts of the case are that* the Complainant himself is a known offender, involved in multiple criminal cases including massive gold seizure of 37 Kg by the Directorate of Revenue Intelligence as is evident from the Bail Application No. 2381/2019 that was filed by him. He maliciously filed the Complaint implicating the Applicant to cover up his own illegal dealing. the Applicant was doing a private job as Site Supervisor in Azadpur Market. After Covid-19, he left the Fruit Mandi work and in order to survive, he started doing some petty job of delivering petty goods for Vijay Kapoor, maternal uncle of his wife. He used to be given him sometimes silver and at times gold jewellery articles like gold ring, earrings along with other metals, to deliver in Chandni Chowk against which he was paid Rs.300-400 per delivery. The Applicant was not a regular employee and was not on a regular salary.

4. After some time, the Applicant came to know that the Complainant is running an illegal business of gold without any lawful license in violation of statutory provisions and creating false identities with the help of CA, MSME and Bank Officials. He mischievously concealed the operation of his business in the name of *Sai Ji Traders* under the Proprietorship of the present Applicant and exposing him to criminal liability and financial fraud.

5. After creating forged and fabricated business document in the name of the Applicant, the Complainant fraudulently entered into multiple *Rent Agreements* in the name of the Applicant to carry out his own illegitimate activities. These Lease/Rent Agreements were executed deceptively to give an impression that the Applicant was in-charge of the business, whereas it was the Complainant who was the sole beneficiary.

6. It is claimed that in further act of manipulation, the Complainant had taken another property on rent in the name of his servant Rajesh Verma, who is neither financially capable nor legally competent to enter into commercial Agreements. This reflects the criminal intent of the

Complainant to use the poor servants as the scapegoat by committing conspiracy and systematic forgery of records.

7. About 3-4 months ago, under duress and emotional coercion and due to old relationship, the Applicant was compelled to sign another Rent Agreement for the Restaurant now being run by the Complainant and his family.

8. In order to convert the black money into white money to be used in his illegal financial dealings, the Complainant has wrongfully used the Applicant's bank accounts to make payments for rents and business transactions, while the Applicant and his family has remained mere puppets. It is further submitted that Applicant's son has invested Rs.65 Lacs in the gold business of the Complainant, out of which Rs.25 Lacs were transferred *via* cheque, but the Applicant or his son were never made beneficiaries in the business.

9. Once the Applicant and his son uncovered the full scale of illegal operations of the Complainant and tried to withdraw from the business, the Complainant started threatening them to falsely implicate them in criminal cases.

10. It is further submitted that the Applicant is a senior citizen and a heart patient already undergoing medical treatment. Previously, due to serious health issues he had became unconscious and lost his mobile phone for which he had made a Complaint dated 05.01.2025.

11. On 27.06.2025, Vijay Kapoor, the Maternal Uncle of his wife, called him with instructions to deliver some goods which were packed possibly in a plastic/small box, to be delivered in Chandni Chowk. On his way to Chandni Chowk, because of excessive heat and humidity, the Applicant stopped to have a drink of lemon water because of his health condition. He, however, felt uneasy and became unconscious. Later, he found that goods given by the Complainant had gone missing. He immediately informed the same to Vijay Kapoor, who sent three persons who brought the Applicant to the shop and checked the Applicant and his mobile phone.

12. He was also taken to the Police Station where he was threatened of false implication. The Applicant repeatedly told that he was not aware about the material and small articles, which were given to him and had been taken away by someone taking advantage of his unconsciousness. However, they all remained adamant and threatened that they have connection with the top Police Officials and with their help and money power, they would implicate the Applicant is a false case. Because of their relationship, a false criminal Complaint was made in Police Station Kotwali and threats were extended to the Applicant.

13. Given the aforesaid circumstances, the Applicant was forced to make a detailed Complaint dated 29.06.2025 stating the apprehension of false and fabricated complaint being registered against him by the Complainant Vijay Kapoor and Sagar Bhola on the allegations that he has stolen 1 Kg Gold.

14. The Applicant submits that he is an innocent person and had nothing to do with the alleged offence. It is claimed that the Complaint against him has been registered only as a pressurizing and blackmailing tactic with *mala fide* intention.

15. The Applicant had filed his Anticipatory Bail Application before the learned ASJ, which has been dismissed on 30.07.2025. The Applicant asserts that he is absolutely innocent and has been falsely implicated and no useful purpose would be served if he is arrested as there is likelihood of him being subjected to physical and mental torture at the hands of the Police. He undertakes not to influence the witnesses or to tamper with the evidence or hamper the investigations in any manner. He along with his family, is residing at the given address and would join the investigations as and when required and shall not misuse his liberty.

16. Reliance has been placed on *Ishwar Chand vs. State of Himachal Pradesh* MANU/HP/0026/1975 wherein it has been explained that the objective of the Bail is only to secure the attendance of the Accused during the trial and on his furnishing of security, he must be released on Bail.

17. It is further asserted that the maximum punishment for the offence under which the FIR is registered is 07 years. The Complaint is a result of grudge and personal vendetta. The Complainant in fact under the guise of summoning him, is preparing the ground for his arrest. The Applicant satisfies the Triple Test for grant of bail i.e. there is no possibility of his tampering the evidence, influencing the witness or fleeing from justice in case he is granted Bail.

18. The power of the Police Section 27 Indian Evidence Act continues as per *Sushila Aggarwal and Ors. vs. State of NCT of Delhi & ors.,* (2020) 5 SCC 1 and *Anil Mahajan vs. Commissioner of Customs,* 2000 (2) JCC Delhi 302. It is further contended that this criminal case has been registered only to humiliate and ruin his reputation.

19. Hence, a prayer is made that he may be granted Anticipatory Bail.

20. *The State has filed the Status Report* wherein it has been explained that after the registration of FIR, the Complainant was examined who disclosed that Applicant was the employee working with him since last two years. His job was to deliver the goods (Gold) to the parties and to collect payment thereof.

21. On 27.06.2025, he had to deliver 1 Kg Gold bar to Kucha Mahajani, Chandni Chowk. On his way, at about 5.15 PM, he informed that he was not feeling well and subsequently, the Gold bar was found missing.

22. The Complainant enquired from the hawkers and the people near the spot and he raised suspicion on the story of the Applicant but the Applicant stuck to his own story. Later, Kashish Soni, son of the Applicant, who is the business partner with the Complainant, assured him that he would talk to his father and return the Gold bar. On this assurance of the son, the FIR was not registered. Subsequently, when the Complainant tried to contact Kashish Soni and the Applicant, they started ignoring and avoiding and switched off their mobile phones. Kashish Soni even did not come to the duty. The Complainant went to the house of the Applicant, but was unable to meet him and his son.

23. On the statement of the Complainant, Section 316(4) BNS was added and the investigations were undertaken. Statement of the witnesses including that of Ganpat, who first reached the Applicant was recorded, who also raised his suspicion over the version of the Applicant and made an enquiry from the *shikanji* stall and the persons present, but they all denied that any person fell unconscious or that there was any information of theft. Statement of the Sumirak Manji, *shikanji* stall owner, was also recorded.

24. Notice under Section 35(3) BNSS was served upon the Applicant to join the investigations on 01.07.2025. Notice was received by his wife Meenu, but he failed to join the investigations. Again, on 01.07.2025, a Notice was served upon the Applicant but he was found absconding. It is stated the Applicant has willfully evaded his presentment before the IO for requisite investigation. NBWs had been issued against him on 10.07.2025.

25. The ***Bail is opposed on the ground*** that there are allegations against the Applicant of having grabbed Gold bar worth Rs.1 crore approximately. He had claimed that he had become unconscious in a crowded place, but this has not been corroborated by the people present around and the *shikanji wala*, whose statement has been recorded. Moreover, Police Post was about 10 to 15 metres away from the spot and around 4-5 Home Guards in uniform were deployed at a distance of about 10 steps from the alleged spot of incident. Police Station is approximately 300 to 400 metres away. He did not inform anyone or raised an alarm when he noticed that the goods were lost, which creates a dent in the version of the Applicant. The averments of the Applicant, therefore, are not believable.

26. Pertinently, he informed only his wife and not the owner or the Complainant and the person who took the Complainant to Kucha Mahajani. The person who took the Applicant to Kucha Mahajani was Ganpat and Dulaar, who had been sent by the son of the Applicant. There was conspicuous silence on the part of the Applicant in disclosing the incident to the owner, which shrouds the version given by him.

27. The mobile phone of the Applicant was also switched off since 27.06.2025 showing that he was evading the process of law and investigations. The case property worth Rs.1 crore approximately, is to be recovered from his possession. The Applicant resides in rented accommodation *and may flee* and be unavailable during the investigations and trial. *His custodial interrogation* is required for recovery of the property and to unearth the conspiracy. The investigations are at nascent stage and grant of Anticipatory Bail may hamper the course of investigation.

Submissions heard and record perused.

28. Essentially, the Applicant who was working for the Complainant, has been given a packet containing 1 Kg Gold bar for delivery in Kucha Mahajani, but on his way, he allegedly became unwell while taking *shikanji* at a Stall and in the interim, the packet was stolen.

29. The Applicant has tried to challenge the version of the Complainant by alleging that there was a delay of about 03 days in registration of FIR, which was registered on 30.06.2025. However, it has been argued on behalf of the Complainant, that Applicant was related in the sense that the Complainant is the maternal uncle of the wife of the son of the Applicant. Immediately on being informed about the incident, they had reached the spot and made inquiries from the Applicant. His son, Kashish Soni reached the spot and assured that the gold would be returned and consequently, the registration of FIR was deferred. However, the Applicant took advantage and made a false complaint on 29.06.2025, claiming that the Complainant is trying to implicate him in a false case.

30. Rather, from the Complaint dated 29.06.2025 of the Applicant, the incident *per se* is shown to have taken place. Admittedly, packet containing 1 Kg Gold was handed over to the Applicant who had been engaged by the Complainant for running errands on a payment of Rs.300-400 per delivery. The incident *per se* is not challenged by the Applicant.

31. The Applicant has further asserted that the Complainant was involved in illegal Businesses and all the premises and the Licenses had been taken in the name of the Applicant. Also, his son had invested Rs.65 lakhs in the business despite which he has not been made a partner. Clearly, Applicant all throughout has been aware of the business activities of the Complainant and had even been running errands of delivery of articles from time to time. Despite being aware of the businesses of the Complainant and being a willing employee on delivery basis for him, he cannot now assert of any kind of illegal businesses being run by the Complainant *in his name*.

32. The Complainant has alleged that he had handed over a bar of 01 Kg Gold, which is found missing from the custody of the Applicant. From the facts as narrated, the Applicant has been running errands for the Complainant since long. So much was the element of trust that various Licences for the Business as well as the Lease Deeds for the premises taken on rent for running the businesses by the Complainant, had all been opened by him. According to the Applicant, his son had invested Rs.65,00,000/- in the businesses of the Complainant.

33. The Applicant is aged about 54 years and there is no likelihood of him fleeing from justice. Earlier he may not have joined the investigations, which is apparently on account of being scared of being arrested. FIR is under Cheating/Criminal Breach of Trust. As has been rightly contended on behalf of the Applicant, he cannot be denied Anticipatory Bail on the ground that custodial interrogation is required for recovery of the alleged stolen/misappropriate gold. It cannot be overlooked that in case any incriminating evidence is to be collected or recovery effected that can be done by the sustained interrogation of the Application.

34. It also cannot be overlooked that immediately and after the incident, the Applicant had informed the owner about the gold having been misplaced. Complainant himself had reached the spot immediately and three days were taken for alleged recovery of the same, though unfortunately it could not be recovered. FIR itself was registered after three days of incident.

35. Considering the totality of circumstances and also that no custodial interrogation is sought, the Applicant/Petitioner is admitted to Anticipatory Bail, subject to the following conditions:

a) The Applicant/Petitioner shall furnish a personal bond in the sum of Rs.35,000/- with one surety each in the like amount to the satisfaction of the Investigating Officer/Arresting Officer;

b) The Applicant/Petitioner shall furnish his mobile number to the Investigating Officer and shall ensure that the number is kept active and switched-on at all times;

c) The Applicant/Petitioner shall surrender his Passport to the Investigating Officer and shall not travel out of India, without prior permission of the learned Trial Court;

d) The Applicant/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.

36. The Bail Application along with pending Applications is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 12, 2025
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