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

Date of decision: 10th March, 2025

+ **BAIL APPLN. 4267/2023**

NITIN VASHISHT

.....Petitioner

Through: Mr. Manvendra Mukul, Mr. Anupam Vasishth, Mr. Sundeep Sirohi, Mr. Jayendra Pandey and Ms. Akansha Vasishth, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for the State SI Gaurav, PS EOW
Mr. Chander Mohan, Mr. Akashdeep Pandey and Mr. S.K. Mishra, Advocates for the Complainant

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present application has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeking grant of anticipatory bail in FIR bearing no. 503/2023 registered under Sections 419/420/467/471 of Indian Penal Code, 1860 (IPC) at Police Station (P.S.) Farash Bazar, Delhi.

Brief facts relevant to the case

2. In brief, the case of the prosecution as borne out from the status reports is that the aforesaid FIR was registered on the complaint of Ms.

Signature Not Verified

Signed By: MAHIMA SHARMA

Signing Date: 14.03.2025 17:07:17

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Sameeksha Sharma against her nephew Nitin Vashisht [Applicant herein] and his mother Smt. Kusum Lata, who is the sister of the complainant.

2.1 It is stated that the complainant in the year 2014 after a matrimonial dispute with her husband moved to Delhi (from Rewari) and was searching for a job. It is stated that the complainant's sister Kusum Lata and her nephew Nitin Vashisht [Applicant] supported her in Delhi and offered a lucrative business deal of trading with an initial investment of Rs. 10,000/-. It is stated that the complainant was not interested in the business, however, on the request of both the alleged persons, she gave them the said initial amount and opened a current account in the name of M/s Sameeksha Distributors under her signatures in Andhra Bank, Vishwas Nagar (now Union Bank of India). It is stated that the Applicant obtained a signed blank cheque book from the complainant under the pretext of managing the business.

2.2 It is stated that the complainant secured a job at another place whereas her nephew Nitin Vashisht [Applicant] kept on looking after the business of M/s Sameeksha Distributors and operated the bank account of complainant by keeping the signed cheque book, ATM Card and PAN card with him. It is further stated that whenever the complainant asked for her share of profits from her sister i.e. Kusum Lata and her nephew Nitin Vashisht [Applicant] they used to make lame excuses and gave nothing to the complainant.

2.3 It is stated on 21.01.2022, complainant got a notice from Income Tax Department ('ITD') regarding non-filing of ITR for the financial year 2016-17 during which the firm M/s Sameeksha Distributors had allegedly transacted for an amount of Rs. 3,15,41,600/-. It is stated thereafter, the complainant received another notice from ITD for non-filing of the ITR during the years 2014-2017, during which the firm had allegedly made



transactions of Rs. 8 89,33,850/-. It is stated that the said transactions were not done by the complainant and when the Applicant was confronted, he allegedly, threatened the complainant and discouraged her from responding to the IT notices and advised her to destroy her PAN card. In view of the above, the complainant was compelled to report the matter to the police and the present FIR was registered.

2.4 It is stated that consequently investigation ensued and during the investigation the original 'Account Opening Form' of M/s Sameeksha Distributors was obtained from the Union Bank, Vishwas Nagar, Delhi. It is stated that on the scrutiny of the Account Opening Form, it was revealed that there are two different signatures of Ms. Sameeksha Sharma available on the form. It is stated that the signature with blue color ink was admitted by the complainant, however, the signature with black ink was disputed by the complainant and alleged to be forged. It is stated that complainant has stated that the first cheque book bears her signatures, however, rest of the cheques bear the forged signatures.

2.5 It is stated that during investigation the specimen signatures and handwriting of the Applicant and the complainant were obtained; and the same has been forwarded to FSL for matching the same with the signatures and handwriting appearing on Account Opening Form and the disputed cheques; however, the FSL result is still awaited.

2.6 It is stated that on scrutiny of the (another) account of M/s Sameeksha Distributors at Canara Bank, Vishwas Nagar, Delhi it has been revealed that maximum amount from the said account has been transferred to the account of six (6) firms/companies namely (i) M/s Royal Trade Enterprises (ii) M/s CP Enterprises (iii) M/s Technosys Enterprises (iv) M/s Ram Kishore



Nagarmal Marketing Pvt Ltd. (v) M/s Shree Krishna Cutting & Binding (vi) M/s Mehak Enterprises.

2.7 It is stated that the bank statements of (i) M/s Royal Trade Enterprises (ii) M/s CP Enterprises (iii) M/s Technosys Enterprises; and (iv) M/s Mehak Enterprises obtained from the Union Bank of India are under investigation.

2.8 It is stated that examination of the original Account Opening Forms of the aforesaid firms namely (i) M/s CP Enterprises and (ii) M/s Royal Trade Enterprises revealed that the given address for communication belongs to the Applicant; and the same was admitted by the Applicant during interrogation.

2.9 It is stated that investigation of M/s Ram Kishore Nagarmal Marketing Pvt Ltd. ('Company') led the prosecution to its promoter Anil Bansal and its employee Manoj Jain. It is stated that the said Company provided C-Forms of M/s Royal Trade Enterprises, M/s CP Enterprises and M/s Mehak Enterprises. It is stated that Manoj Jain informed the I.O. that the Applicant herein and one Subhash Gautam together dealt with this company for sale and purchase of goods on behalf of the three firms M/s Royal Trade Enterprises, M/s CP Enterprises and M/s Mehak Enterprises.

2.10 It is stated that on the scrutiny of the C-forms it was found that Subhash Gautam is the proprietor of M/s Royal Trade Enterprises, Assam, Guwahati and one Ms. Parul, who is the wife of the Applicant/ Nitin Vashisht was found to be the proprietor of M/s CP Enterprises which is based in Assam, Guwahati.

2.11 It is stated that it was further found that there are two firms in the name and style of M/s CP Enterprises. One of them as stated above is based in Assam, Guwahati which stands registered in the name of Parul [wife of



Applicant] and the other stands registered at the address i.e., 221 A Durgapuri Extension, New Delhi and the proprietor of the same is Pappu, who is the real brother of the person named Subhash Gautam.

2.12 It is stated that, thereafter, Subhash Gautam who is the proprietor of M/s Royal Trade Enterprises was interrogated. He stated that he was the driver of the Applicant and his mother Kusum Lata from 2013-2016.

He disclosed that he used to carry amounts of Rs. 1 lakh to 10 lakhs in cash for depositing the same in bank accounts of the firms upon instructions of the Applicant.

He stated that he used to get an amount of Rs. 8,000-10,000/- in cash from the Applicant, on the verge of collection of money from employee namely Manoj Jain and owner i.e. Anil Bansal of M/s Ram Kishore Nagarmal Marketing Pvt Ltd. He states that the cash amount was deposited in the bank accounts of firms/companies namely (i) M/s Royal Trade Enterprises (ii) M/s CP Enterprises (iii) M/s Technosys Enterprises (iv) M/s Mehak Enterprises and (v) M/s Sameeksha Distributors.

He stated that Applicant persuaded him to sign papers for opening the bank account in the name of M/s Royal Trade Enterprises and he was offered to be paid extra amount monthly for this purpose; however the account was operated by the Applicant.

2.13 It is stated that during the course of investigation, persons namely Pappu [proprietor of M/s CP Enterprises] and Pawan [proprietor of M/s Tecnosys] had also joined the investigation and both of them corroborated the statement of their brother i.e., Subhash Kumar. They further stated that the Applicant had visited their village and lured them to open the bank accounts in Union Bank, Vishwas Nagar, Shahdara with him in lieu of which



Rs. 1500/- every month along with other expenses will be paid to them. It is stated that, accordingly, the Applicant had further made them sign the bank papers along with the cheque books of the respective companies and firms however, the bank accounts were operated by the Applicant.

2.14 It is stated that during the investigation the bank officials of Union Bank of India namely Sushil Kumar and Shivank Sharma were also examined; and during the examination it was stated that Subhash Gautam was one of the biggest clients of their branch and he used to visit the branch on frequent basis to deposit the huge amount of cash money. Further, notice was sent to other officers namely, Alok Sharma who was the branch head of Andhra Bank (now Union Bank of India) at the relevant time and Niharika Srivastava and Ketaki Singh, however, the said bank officials have not joined the investigation till date and their examination is pending.

2.15 It is stated that during interrogation of the Applicant, he has denied all the material facts of the matter that were collected during the investigation from the persons namely Manoj Jain, Suresh Gautam, Subhash Gautam, Pappu, Pawan, bank officials of Andhra Bank (now Union Bank of India) and the complainant. Further he has also denied having any information regarding the financial transactions held in the accounts of the companies/firm operated and controlled by him.

Arguments on behalf of the Applicant/accused

3. Learned counsel for the Applicant states that the Applicant has been falsely implicated in the present case.

3.1 He states that Applicant has joined the investigation as and when directed by the I.O.



3.2 He states that the complainant is his Mausi (Mother's Sister) and even though he had assisted her in opening the bank account at Union Bank, however, no transactions were carried out by him.

3.3 He states that there is no criminal antecedent against the Applicant and as such there are no chances of the Applicant for fleeing or tampering with any evidence if he is granted anticipatory bail.

3.4 He further states that custodial interrogation of Applicant is not required and investigation can be done without arresting Applicant. He further states that the applicant undertakes to join investigation as and when directed by this Court or as required by the police officials/IO.

3.5 He, however, admits that the address i.e., 221-A, Durgapuri Extension, New Delhi is the ancestral property of the Applicant and he admits that the firms M/s CP Enterprises [proprietor Pappu] and M/s Royal Trade Enterprises [proprietor Subhash Gautam] have this as their address. He states that Subhash Gautam was the tenant of the Applicant and therefore used the said address; however, he admits that there is no proof of the tenancy.

Arguments of the Respondent/state

4. In reply, Mr. Khanna, learned APP opposes the bail application of the Applicant. He has handed over an updated status report dated 08.03.2025 during the course of hearing. He is directed to place the same on record.

4.1 He states that the present case is a case involving commission of an offence of cheating. He states that anticipatory bail may not be granted to the Applicant as the allegations are very serious in nature and thorough investigation is required. Moreover, in the present case a huge amount of money which is about Rs. 8 crores are involved.



4.2 He states that the allegation alleged against the Applicant are that he was unauthorisedly using the complainant's bank account and upon scrutiny of the said bank account it was found that maximum amount from the said bank account of the complainant has been transferred to the bank account of six (6) firms. He states that investigation of four (4)¹ out of these six (6) firms revealed that it belongs to the persons who were connected or have worked with the Applicant as employees. Therefore, the Applicant herein appears to be the kingpin of the criminal conspiracy and commission of the offence committed for which the FIR no. 503/2023 has been filed.

4.3 He states that Subhash Gautam the alleged proprietor of M/s Royal Trade Enterprises, who worked as an employee of the Applicant and carried out the cash deposits in the bank accounts at the behest of the Applicant is presently working as a truck driver. Thus, the Applicant's bare denial during interrogation of the facts disclosed by Subhash Gautam, is obstructing the investigation. He states that the cheque books of the bank accounts of all the firms and the ATM cards are in possession of the Applicant and its recovery is sought by the prosecution.

4.4 He states that investigation of the case is at the initial stage and if the Anticipatory bail is granted, the Applicant, may indulge in committing similar crimes and not cooperate/join in further investigation of the present FIR.

4.5 He states that the custodial interrogation of the Applicant is required to unearth the whole conspiracy involved in the said matter and to ascertain the whereabouts of the whole money involved in the present matter.

¹ (i) M/s Royal Trade Enterprises (ii) M/s CP Enterprises (iii) M/s Technosys Enterprises; and (iv) M/s Mehak Enterprises



Furthermore, the custodial interrogation is also needed at this stage since the associates of the Applicant are still yet to be verified.

4.6 He states that the cheated amount is still yet to be recovered and besides that the role of the Applicant alleged at this stage appears to be prominent in the offence committed since he is in exclusive knowledge of fraud done with the complainant since its inception.

4.7 He states that plea of false implication has been raised by the Applicant, however no specific foundation or material has been placed on record which corroborates or proves the said plea. Hence, such plea cannot be a ground to seek anticipatory bail.

4.8 He states that despite being given opportunities the Applicant is not fully cooperating with the investigating agency and has failed to produce any requisite document to corroborate with his version that he is being falsely implicated.

4.9 He states that in case the anticipatory bail is granted to the Applicant, there are chances that the Applicant may hamper the investigation and tamper with the evidence of the case. Further there is a reasonable likelihood that the Applicant may abscond or flee and evade the process of law.

Findings and Analysis

5. This Court has heard the learned counsels for the parties and perused the record.

6. The present application for anticipatory bail of the Applicant is primarily based on ground that the Applicant has been falsely implicated. In this regard it would be relevant to refer to the judgment passed by the Supreme Court in **Ruli Ram vs. State of Haryana**² wherein it has been

² (2002) 7 SCC 691



observed by the Supreme Court that when a plea of false implication is advanced by the accused foundation for the same has to be established by the Applicant/accused. Similarly, the Supreme Court in in **Ram Udgar Singh vs. State of Bihar**³ reiterated that foundation has to be laid if a plea of false implication is made. In the present case vague allegations have been made in regard to plea of false implication. However, the contents of FIR and case of the prosecution as set out in the status reports filed in these proceedings alleged against the Applicant are quite serious and does not indicate a false implication or undue harassment. Hence such plea of false implication is not tenable.

7. Before advertng to the facts of the present case it would also be imperative to refer to the judgments of the Supreme Court on the subject matter of anticipatory bail. The Supreme Court in the case of **Sumitha Pradeep v. Arun Kumar**⁴ while dealing with the conflicting aspect of need for custodial interrogation and anticipatory bail held that even in the cases where custodial interrogation is not required, the Court cannot overlook the test of whether prima facie case has been made out against the accused by the prosecution. The relevant paragraph reads as under:

“In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the

³ (2004) 10 SCC 443

⁴ (2022) 17 SCC 391



custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

8. Further, it is well settled that the power exercisable under Section 482 of BNSS for granting anticipatory bail is extraordinary in character and is to be exercised only in exceptional cases, where it appears to the Court that the person may be falsely implicated or there are reasonable grounds for holding that the person, who is accused of the offence is not likely to otherwise misuse his liberty. (Re: **State of Madhya Pradesh v. Pradeep Sharma**⁵)

9. As set out in the brief facts, the prosecution has at this stage prima facie brought out a distinct connection between the proprietors of bank account of firms namely M/s Royal Trade Enterprises, M/s C P Enterprises, M/s Technosys Enterprises, M/s Mehak Enterprises and complainant's bank account in the name of M/s Sameeksha Distributors. Each of the said firms are apparently closely connected to the Applicant herein. And all of these firms have transacted in the bank account of the complainant for large sums. Each of the proprietor of these firms has stated before the prosecution that their accounts are being operated by the Applicant herein.

⁵ 2014 (2) SCC 171



The Applicant has not disputed his prior relationship with Subhash Gautam. The fact that Subhash Gautam⁶ work as a truck driver or that Pappu⁷ or Pawan⁸ [brothers of Subhash Gautam] are all persons who have no wherewithal to deal in large transactions of lakhs of rupees is not disputed by the Applicant. The Applicant has been unable to give any reasonable explanation for the fact that the address of the firms i.e. M/s C P Enterprises and M/s Royal Trade Enterprises has his ancestral property address. The connection of the Applicant to Subhash Gautam, Pappu and Pawan as well as the firms is prima facie established. The prosecution has thus brought out sufficient prima facie evidence on record to seek interrogation of the Applicant.

10. Moreover, investigation is at infancy stage and in offences like these as committed in the present case a thorough investigation is required to reach at its logical conclusion.

11. Considering the above and having regard to fact that no such exceptional circumstances have been shown for compelling this Court to grant anticipatory bail, therefore, this Court is of the view that the allegations are serious which warrant custodial interrogation of the Applicant to unravel the entire criminal conspiracy committed against the complainant.

12. In view of the aforesaid circumstances, no ground for anticipatory bail is made out to the Applicant.

13. Accordingly, the present bail application stands dismissed. Interim protection granted vide order dated 11.01.2024 stands vacated.

⁶ proprietor of M/s Royal Trade Enterprises

⁷ proprietor of M/s C P Enterprises

⁸ proprietor of M/s Technosys Enterprises



14. Pending applications, if any, stands disposed of as infructuous.
15. Needless to state that nothing herein shall be construed as an expression of opinion on the merits of the case, or the investigation that is yet to be concluded.
16. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MARCH 10, 2025/mt/ms

MANMEET PRITAM SINGH ARORA, J

Click here to check corrigendum, if any

Signature Not Verified

Signed By: MAHIMA
SHARMA

Signing Date: 14.03.2025
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