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

+ BAIL APPLN. 3618/2025

MOHIT

.....Applicant

Through: Mr. Farheen Alam,
Advocate.

versus

THE STATE GOVT OF NCT OF DELHIRespondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Atul Prabhakar, PS Okhla
Industrial Area.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **19.09.2025**

1. The present application is filed seeking pre-arrest bail in E-FIR No. 80021861/2025 dated 25.02.2025, registered at E-Police Station Okhla Industrial Area for the offence under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023.

2. The FIR was registered on a complaint given by one Kushal who is stated to be an employee of Godrey Phillips India Ltd. It is alleged that on 18.02.2025, when the complainant was going to deliver candy and carton of cigarettes, and had stepped out of his truck near Okhla underpass, the locks of the truck were found broken and 32 cartons containing candy and cigarettes were stolen from the vehicle driven by the complainant.

3. During the course of the investigation, on the basis of a secret information on 03.03.2025, some of the robbed articles were recovered from the shop in the possession of the applicant and one person namely Sahil who were running a mobile

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accessories shop. Further, during investigation, the applicant stated that the complainant had sent some articles to his shop for keeping them and that he did not have knowledge that the said articles were stolen goods.

4. The complainant had initially not named the applicant, however pursuant to the interrogation, the complainant stated that when he was going to deliver the articles and had reached near Okhla underpass, the applicant and co-accused Sahil were already present there and they took all the boxes of candy and cigarettes from the complainant's vehicle. The complainant was also found to be changing his statements.

5. During the course of the investigation, it was found that the applicant and the complainant were known to each other and the CDR location of both of them was found to be at the place of the incident.

6. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He submits that the shop of the applicant is situated near the place of incident and that the presence of the applicant near the place of incident does not *per se* indicate that the applicant was involved in the commission of the alleged offence. He submits that the applicant had no knowledge that the said goods were stolen.

7. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are serious in nature. He submits that the applicant was known to the complainant and that the stolen goods were recovered from the shop of the applicant.



8. I have heard the learned counsel for the parties and perused the record.

9. It is to be kept in mind that the investigation is currently at a nascent stage. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation is carried out by the investigating agency.

10. It is trite law that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, in the case of ***State of A.P. v. Bimal Krishna Kundu*** : (1997) 8 SCC 104, held as under:

“8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)

“5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal.”

9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)

“The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest.”

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12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations



involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on “the career of millions of students”, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.”

11. It is settled law that the custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of the BNSS [***State v. Anil Sharma : (1997) 7 SCC 187***]. Granting anticipatory bail to the applicant would undoubtedly impede further investigation. An order of bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield.

12. In the present case, it is alleged that the applicant in connivance with other co-accused hatched a conspiracy to steal the goods. It is pertinent to note that the during the course of investigation, on secret information, the robbed articles were recovered from the shop which is stated to be in possession of the applicant. The said shop is taken by the applicant for running a business of mobile phone accessories. Further, during the course of the investigation, it was also found that the applicant and the complainant were known to each other and the CDR location of both of them were found to be at the place of incident.



13. While the complainant had initially not named the applicant, however, pursuant to the interrogation the complainant stated that the applicant and co-accused Sahil had taken the articles from the vehicle. The complainant was also found to be changing his statement. From a perusal of the material presented at this stage, the involvement of the complainant in the offence cannot be ruled out. At the same time, it cannot be ignored that the robbed articles were recovered from the shop of the applicant.

14. Considering the allegations against the applicant, it cannot be held at this stage that the investigation is being carried out with the intention to injure or humiliate the applicant. *Prima facie*, the facts do not indicate false implication of the applicant.

15. Granting pre-arrest bail to the applicant would undoubtedly impede the investigation. The investigating agency needs to be given a fair play in the joints to investigate the matter in the manner they feel appropriate.

16. The present application is accordingly dismissed. Pending applications also stand disposed of.

17. It is clarified that any observations made in the present order are only 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 the merits of the case.

AMIT MAHAJAN, J

SEPTEMBER 19, 2025/DU