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

+ **BAIL APPLN. 3961/2024**

SANDEEP KUMAR

.....Petitioner

Through: Mr. Anil Hooda, Mr. Sunny Chauhan
and Mr. Shafik Ahmed, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with Mr. Karandeep Singh, Advocate.
Mr. Deepak, SI, PS-Mundka.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.01.2025

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1. Through the present application filed under Section 483 Bhartiya Nagrik Suraksha Sanhita, 2023,¹ (erstwhile Section 439 of the Code of Criminal Procedure, 1973²), the Applicant seeks regular bail in proceedings arising from FIR No. 182/2013 under Sections 498A/306/34 the Indian Penal Code, 1860³ registered with Police Station Mundka, Delhi. However, the chargesheet in respect of aforementioned FIR was filed under Section 173 of CrPC for offences under Sections 498A/306/328/34 of IPC.

2. The brief background of the case is as follows:

2.1. On 2nd February, 2006, marriage of the deceased was solemnized with One Mr. Ravinder.

¹ "BNSS"

² "CrPC"

³ "IPC"



2.2. On 28th August, 2013, the deceased committed suicide by consuming sulphas tablet. The husband and in-laws of the deceased took her to the hospital, however, she was declared brought dead. Subsequently, on 29th August, 2013, an FIR was registered against the Applicant and the others on the basis of statement of the deceased's father, Mr. Rajinder Singh.

2.3. On 5th November, 2023, a final report was filed against the Applicant before the Trial Court, however the Applicant did not appear before the Trial Court leading to initiation of proceedings against him under Section 82 of CrPC which eventually led to him being declared as a proclaimed offender on 4th December, 2017. The Applicant was subsequently arrested on 1st September, 2024 and since then, he has been in judicial custody.

2.4. The Applicant applied for regular bail and through orders dated 9th September, 2024 and 4th October, 2024, the same was rejected by the Trial Court.

2.5. In this background, the Applicant submits that he has been falsely implicated in the present case as he is a distant relative of the deceased's husband and has no role in the alleged offence of abetment of suicide. He submits that he was never served the notice under Section 82 of CrPC otherwise the Applicant would have appeared before the Trial Court. Further, it is pointed out that the Applicant was, in fact, granted anticipatory bail by this Court through order dated 3rd March, 2014. He emphasizes that he has no criminal antecedents and he is the sole earner of the family, comprising of eight years old daughter and wife.

3. Contrarily, the Applicant's request is strongly opposed by APP for the State. Although the Petitioner had secured anticipatory bail, however, subsequently he had defaulted and not appeared before the Court. Therefore,



his conduct disentitles him for the relief sought in the present petition and does not call for any indulgence by this Court.

4. The Court has considered the afore-noted contentions. The Supreme Court in the case of *Sanjay Chandra v. CBI*,⁴ emphasized that providing bail prevents the accused from undergoing imprisonment before being convicted. The relevant observations made by the Court read as follows:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

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27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution.

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⁴ (2012) 1 SCC 40



*40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. **But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.***

XX ... XX ... XX

*43. There are seventeen accused persons. Statements of witnesses run to several hundred pages and the documents on which reliance is placed by the prosecution, are voluminous. **The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that the accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet.***

[Emphasis Supplied]

5. In the instant case, the Applicant has been in custody for nearly 4 months. The Applicant did not appear before this Court after being granted anticipatory bail, resulting in his arrest. Nonetheless, the applicant has now undertaken to comply with the conditions of bail and has assured full co-operation with the trial proceedings and agreed to appear before the Trial Court as and when required. Further, the Applicant has pledged not to influence any witnesses, tamper with evidence or indulge in activities that could obstruct judicial process.

6. It is important to note that granting bail does not suggest an opinion on the merits of the case or the Applicant's innocence. Instead, it ensures that the Applicant retains their right to liberty, thereby balancing the



interests of justice with the constitutional principle that detention before conviction should not be punitive.

7. In view of the foregoing, the Court is inclined to allow the Petitioner's request and accordingly directed that the Applicant shall be released on regular bail on furnishing a personal bond in the sum of INR 50,000/- along with one surety of the like amount to the satisfaction of the Trial Court, subject to the following conditions:

- a. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The Applicant shall under no circumstance leave the country without informing the concerned IO;
- c. The Applicant shall appear before the Trial Court on every date;
- d. The Applicant shall, after his release, appear before the concerned IO once in every week;
- e. The Applicant shall provide the address where he would be residing after his release to the concerned IO/SHO and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
- g. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.

8. Needless to state, any observations concerning the merits of the case are solely for the purpose of deciding the question of grant of bail and shall not be construed as an expression of opinion on the merits of the case.



9. A copy of the order be sent to the Jail Superintendent for information and necessary compliance.
10. With the foregoing directions, the present application is disposed of. Pending application(s), if any, are disposed of as infructuous.

SANJEEV NARULA, J

JANUARY 9, 2025

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