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

+ **BAIL APPLN. 4044/2024 & CRL.M.A. 33328/202**

MISTRY DHRUV PRAVIN KUMARApplicant

Through: Mr. Manish Gupta, Ms. Deepti Verma, Mr. Prateek Gupta, Ms. Sowmya Chena, Mr. Rishabh Rai and Mr. Ravi, Advs.

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Satish Kumar, APP for the State with W/SI Saroj Yadav, PS IGI Airport.

+ **BAIL APPLN. 4047/2024 & CRL.M.A. 33368/2024**

MISTRY VISHAL PRAVIN KUMARApplicant

Through: Mr. Manish Gupta, Ms. Deepti Verma, Mr. Prateek Gupta, Ms. Sowmya Chena and Mr. Ravi, Advs.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Satish Kumar, APP for the State with W/SI Saroj Yadav, PS IGI Airport.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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17.04.2025

1. By the present bail applications, the applicants seek pre-arrest bail in FIR No. 602/2024 dated 22.08.2024, registered at I.G.I. Airport, for offences under Sections 318(4)/336(3)/340(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 12 of the



Passports Act, 1967.

2. The FIR was registered on receiving an information that one person namely Krupesh Patel holding an Indian passport, while seeking departure clearance for Canada, on the intervening night of 21.08.2024 – 22.08.2024, was caught trying to depart on the strength of a fake visa.

3. During the course of investigation, it was also revealed that the accused Krupesh Patel had also attempted to travel to the U.S.A. in the year 2019 on the basis of the same fake visa but he was offloaded and was lodged behind bars. The accused Krupesh Patel claimed that he had paid a sum of ₹50,00,000/- to one person, namely, Sunny for the fake visa and since he was offloaded, a sum of ₹30,00,000/- was returned to him.

4. The accused Krupesh Patel named five accused persons namely– Palak, Sunny, Deepak, Nilesh and Bobby, to be the persons who arranged the fake Canadian visa.

5. During the course of further investigation, it is alleged by the prosecution that one accused, namely, Piyush Kumar Kamlesh Bhai Patel @ Palak Patel, was arrested, who on interrogation, confessed his crime and disclosed that he had arranged the fake Canadian visa for the accused Krupesh Patel with the help of Sunny Mistri @ Druv and Vishal Mistri Pravin Kumar, who are the applicants in the present case. He further disclosed that the applicants had taken the accused Krupesh Patel by train to Mumbai and arranged fake visa.

6. This Court, by order dated 18.11.2024, had directed the Police not to arrest the applicants on their joining the investigation. It is not disputed that the applicants have since joined the investigation.



7. The learned Additional Public Prosecutor for the State though states that the applicants have not cooperated with the investigation. On being pointedly asked, he states that the applicants have not disclosed the *modus operandi*.

8. The law in regard to the grant of pre-arrest bail is well-settled. In the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra : (2011) 1 SCC 694***, the Hon'ble Supreme Court dealt with the issue of pre-arrest bail, and the balance that needs to be maintained while granting the same to an accused and further laid down the factors that must be taken into consideration while dealing with pre-arrest bail and held as under:

“...112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

iii. The possibility of the applicant to flee from justice;

iv. The possibility of the accused's likelihood to repeat similar or the other offences.

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full



investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail...”

9. At this stage, the material against the applicants is only a disclosure statement of Piyush Kumar Kamlesh Bhai Patel @ Palak Patel.

10. As noted above, the applicants have joined investigation. Merely not answering to the satisfaction of the Investigating Officer, does not amount to the applicants not cooperating with the investigation.

11. Even otherwise, as per the case of the prosecution, the alleged fake visa was procured long back in the year 2019. The case has been reported now when the accused Krupesh Patel tried to travel on the same fake visa in the year 2024.

12. It is not in doubt that order for grant of pre-arrest bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined the investigation and is not likely to abscond, the custodial interrogation should be avoided.

13. The purpose of custodial interrogation is to aid the investigation and is not punitive. In the opinion of this Court, no purpose would be served by subjecting the applicants to custodial interrogation.

14. No apprehension has been expressed that the applicants



will evade the trial. Even otherwise, any apprehension regarding the applicant fleeing from justice, tampering with evidence or not cooperating with the investigation can be taken care of by putting appropriate conditions.

15. In view of the above, it is directed that in the event of arrest, the applicants are directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- each with two sureties each of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicants shall join and cooperate with the investigation, if required, as and when directed by the IO;
- b. The applicants shall not leave the country without the prior permission of the learned Trial Court;
- c. The applicants 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;
- d. The applicants shall appear before the learned Trial Court as and when directed;
- e. The applicants shall provide the address where they would be residing after their release and shall not change the address without informing the concerned IO/SHO;
- f. The applicants shall give their mobile number to the concerned IO/SHO and shall keep their mobile phone switched on at all times.

16. It is clarified that the observations made in the present order are only for the purpose of considering the present bail



applications 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.

17. The present bail applications are allowed in the aforementioned terms. Pending application(s) also stands disposed of.

18. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

APRIL 17, 2025

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