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

+ **BAIL APPLN. 4124/2024 & CRL.M.A. 33963/2024**

TARUN KUMAR

.....Petitioner

Through: Mr. Maninder Singh, Sr. Advocate
with Mr. Ajay Kumar Pipaniya, Mr.
Gurjas Singh, Ms. Nikita Garg and
Ms. Sanjana Nair, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State with Insp. Pramod Kumar
(ATO), PS: Mayur Vihar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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13.01.2025

1. The present petition under Section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023¹ read with Section 523 of the BNSS seeks grant of anticipatory bail in relation to FIR No. 147/2024 under Section 302 the Indian Penal Code, 1860² registered at PS: Mayur Vihar.

2. At the outset, it is clarified by the Investigating Officer, present in Court, that a typographical error occurred in paragraph 11 of the status report submitted to this Court. The Applicant/Accused was inadvertently referred to as Tarun @ Tannu, though the averments in the said paragraph pertain to the present Applicant.

¹ "BNSS"

² "IPC"



3. In brief, the case of the prosecution is as follows:

3.1 On 17th April, 2023, an information *vide* DD No. 89A was received at Police Station Mayur Vihar regarding a person namely Ashok@ Thanda Paani³ who was brought to LBS hospital by a Rikshaw puller namely, Har Govind. Upon arrival, the said person was declared “brought dead” by the attending doctor. SI Vishal Lamba reached LBS Hospital to inspect the dead body which had multiple injuries. Efforts to trace the rickshaw puller were unsuccessful. Based on MLC and the preliminary enquiries, an FIR No. 147/2024, under section 302/34 of the Indian Penal Code, 1860⁴ was registered. Subsequent investigations, including CCTV footage analysis and Call Detail Records (CDRs), led to the identification and arrest of several accused persons.

3.2 On 20th May, 2024, the co-accused Hukum Chand @Ravi during interrogation identified the Applicant as being involved in the crime. He disclosed that the Applicant was in constant touch with him. Hukum Chand @Ravi further stated that the Applicant was not only aware of the incident but was actively in touch with to him. He stated that he called the Applicant to Sheesh Mahal Park, where two cars were used in the commission of the offence. CCTV footage allegedly shows the Applicant and Hukum Chand @Ravi guiding these vehicles, one of which carried the deceased, toward Sheesh Mahal Park. Footage further purportedly captures the Applicant inspecting the vehicle carrying the deceased and instructing Hukum Chand to move the car to the backside of the park. Following these instruction, co-accused Hukum Chand@Ravi took the car from the other side of the park,

³ “deceased”

⁴ “IPC”



so that the victim can be taken to the said park, facilitating the events leading to the last seen location of the deceased at Sheesh Mahal Park.

3.3. Based on the CCTV footage and disclosure statements of the co-accused, it is evident that the Applicant played a direct role in the crime and maintained continuous contact with Hukum Chand @ Ravi, allegedly acting in furtherance of the conspiracy.

4. Mr. Maninder Singh, Senior Counsel for Applicant, makes following submissions:

4.1. Two FIRs i.e., FIR no. 147/2024 under Section 302 of the Indian Penal Code, 1860⁵ and FIR No. 148/2024 under Section 324/506/34 of the IPC were registered at PS: Mayur Vihar regarding the assault of two injured persons namely, Sushil and Sameer and kidnapping of the deceased namely Ashok@ Thana Pani in Car no. DL-1ZB-1438.

4.2. The name of the Applicant does not appear in either FIR No. 147/2024 or FIR No. 148/2024. Neither the Complainant nor any other eyewitness has implicated the Applicant in connection with the alleged offences.

4.3. As per the prosecution's own case, co-accused Hukum Chand @ Ravi was not in contact with any of the other accused until 4:23 PM on 17th April, 2024. This timeline undermines the allegation of a premeditated conspiracy involving the Applicant.

4.4. The Applicant had no prior enmity or animosity with the deceased, Ashok @ Thanda Pani. The prosecution has failed to establish any motive for the Applicant to participate in the alleged offence.

4.5. The disclosure statement made by co-accused Mukesh, also does not



disclose any allegations of conspiracy or any role of the Applicant.

4.6. The prosecution's case against the Applicant hinges entirely on the disclosure statement of Hukum Chand @ Ravi, which is insufficient to establish even a *prima facie* case. The reliance on the disclosure statement of Hukum Chand @ Ravi to implicate the Applicant suggests a false implication. Moreover, Applicant has not been mentioned by any of the members of deceased family or any of the witnesses.

4.7. The Applicant is not even seen in the CCTV footage, relied upon by the prosecution. The only footage capturing the Applicant places him in the vicinity of his residence, where he was allegedly called by his uncle, Hukum Chand @ Ravi. This cannot form the basis for implicating the Applicant in the alleged offence. Furthermore, a discrepancy exists between the CCTV footage timestamps and the Call Detail Record (CDR) timestamps, which further weakens the prosecution's case.

4.8. Videos available in the public domain depict the presence of other individuals with the deceased, but the Applicant is conspicuously absent in these recordings. This further supports the contention that the Applicant had no involvement in the incident.

4.9. The Applicant is willing to join and cooperate in the investigation, and therefore, there is no basis for the prosecution to seek any custodial interrogation.

4.10. The proceedings under Section 82 of the Code of Criminal Procedure, 1973.⁶ were wrongly initiated against the Applicant. This Court had accordingly intervened and through order dated 03rd September, 2024

⁵ "IPC"

⁶ "Cr.P.C."



quashed the initiation of the process for the proclamation under Sections 82/83 of Code of Criminal Procedure, 1973.

5. Mr. Mukesh Kumar, APP for the State, strongly opposes the application and submits as follows:

5.1. It is emphasised that presently, the investigation is ongoing, and the custodial interrogation of the Applicant is necessary. Right now, the information gathered, and the disclosure statements made by the co-accused, are sufficient basis, to interrogate the Applicant.

5.2. Reliance is placed on the Call Detail Records (CDR) analysis report, which reveals that the Applicant was in regular contact with the co-accused, Hukum Chand @ Ravi, on the day of the incident. Specifically, there were eight incoming and outgoing calls exchanged between the Applicant and Hukum Chand @ Ravi between 4:45 PM and 4:54 PM on 17th April, 2024, shortly before the incident. The CDR data, detailed in the status report, serves as direct and scientific evidence linking the Applicant to the crime.

5.3. On the day of the incident, the Applicant spoke with Hukum Chand@ Ravi just shortly before the arriving at the spot no. 4 i.e., Sheesh Mahal Park, Haiderpur Village. The timing of these calls and the Applicant's presence at the crime scene indicate that he was summoned by Hukum Chand @ Ravi to execute the plan. The Applicant was allegedly aware that the deceased, Ashok @ Thanda Pani, was being brought by Hukum Chand @ Ravi and others in a vehicle to Sheesh Mahal Park for the purpose of committing the murder.

5.4. The allegations against the Applicant and the co-accused are of a grave nature. While a chargesheet has been filed against other co-accused, the investigation concerning the Applicant remains incomplete due to his



lack of cooperation. The Applicant has obstructed key investigative procedures, including the recovery of crucial evidence such as his clothes, mobile phone, and additional CCTV footage relevant to the case. The custodial interrogation of the Applicant is essential for the recovery of these items and to further the investigation.

6. In light of the foregoing, there being a strong basis for Applicant's involvement and the fact that Applicant has failed to join the investigation and is evading arrest, the APP strongly emphasises that Applicant must not be granted anticipatory bail.

7. The Court has carefully considered the contentions advanced by counsel for both parties. While adjudicating an application for anticipatory bail, the Court must consider various factors, including the nature and gravity of the crime, the role attributed to the Applicant, the possibility of the Applicant absconding, and their past antecedents. These factors are critical to ensuring that the balance between, the liberty of the individual and the needs of the investigation, is maintained.

8. The investigation is ongoing, and the role of the Applicant is still under scrutiny. The arguments raised by counsel for the Applicant, including the alleged absence of direct evidence and discrepancies in the prosecution's case, are matters that require a detailed examination, which can only be undertaken once the investigation is complete. At this juncture, based on the submissions made by the APP and the material presented, there appears to be sufficient basis for the investigating agency to further investigate the Applicant's involvement in the alleged offence. The allegations against the Applicant are of a grave nature, involving offences punishable under Section 302 IPC. The prosecution has presented material that implicates the



Applicant in the planning and execution of the offence. The CCTV footage allegedly shows the Applicant directing vehicles involved in the incident toward the crime scene and instructing co-accused Hukum Chand @ Ravi to manoeuvre the vehicle carrying the deceased to a specific location. Furthermore, the Call Detail Records indicate repeated and close communication between the Applicant and the co-accused on the day of the commission of the alleged crime. These pieces of evidence, taken together, *prima facie* suggest the Applicant's active involvement in furtherance of a conspiracy. Considering the gravity of the allegations, role attributed to the Applicant, his lack of cooperation, the need for recovery of his mobile phone and other items, strongly suggests the need for custodial interrogation. Allowing anticipatory bail in such circumstances would risk impeding the investigation.

9. For the foregoing reasons, the present petition is dismissed, along with pending applications.

SANJEEV NARULA, J

JANUARY 13, 2025/d.negi