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

+ **BAIL APPLN. 4146/2024, CRL.M.A. 34158/2024**

NISHANT SOLANKI

.....Petitioner

Through: Mr. Ashwin Vaish, Mr. Rajat Pahwa
and Mr. Rohan Nair, Advocates.

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sanjeev Bhandari, ASC with Mr.
Arjit Sharma and Mr. Nikunj Bindal,
Advocates for State along with ACP
Naresh Kumar, AGS, Crime Branch
and Insp. Gulshan Yadav, Crime
Branch.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

14.01.2025

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1. The present petition under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ read with Section 438 of the Code of Criminal Procedure, 1973 seeks pre-arrest bail in FIR No. 360/2019 lodged at PS Crime Branch under Section 419, 420, 468, 471 of the Indian Penal Code, 1860² read with Section 7/13 Prevention of Corruption Act, 1988.³

2. The case of the prosecution is as follows:

2.1. A complaint dated 18th December, 2018 was received in the office of the Deputy Commissioner of Police, Special Branch. Shri Vijay Kumar

¹ "BNSS"

² "IPC"

³ "PC Act"



Nagar, ACP Vigilance, conducted enquiry into the allegations levelled against certain police officials of the Crime Branch and 343 accused persons who had procured Indian passport on the basis of forged documents. All 343 passport holders conspired with their associate agents and police officials who cleared the police verification reports for the passport application forms of these individuals. Consequently, the FIR was registered and the investigation was carried out.

2.2. During investigation, the addresses provided by the accused in their applications for obtaining Indian passports and the addresses of the witnesses mentioned in the police verification reports of the alleged Indian passport holders were visited. It was found that while most of the addresses existed, the alleged passport holders never resided at the given addresses. The statements of the house owners or tenants residing at the addresses have been recorded under Section 161 Cr.P.C. The Aadhar cards, Voter ID cards, bank passbooks, school leaving certificates etc. submitted by the passport holders were found to be fake/forged. The police verification reports were also verified but found to be false. After verifying the given addresses, it is an apprehension that the accused/passport applicants might leave India; hence, the LOCs of 343 accused persons were opened by FRRO, New Delhi.

2.3. It is further mentioned that one person namely Tarlok Singh was intercepted at IGI Airport, against whom a Look-Out-Circular⁴ was opened. He was subsequently arrested. Moreover, four persons, namely Nirvar Singh, his wife Mrs. Manmeet Kaur, Hardev Singh, and his wife Smt. Surbir Kaur, were also intercepted at Mumbai Airport, against whom LOCs was issued. They were subsequently arrested. Further, another accused person,



Harinder Singh, was also arrested at the instance of Hardev Singh. During investigation, all the documents provided by these accused persons, as well as alleged passport holders, were found to be fake/forged. There was sufficient evidence against all the arrested accused persons. Accordingly, chargesheet was filed.

2.4 As regards the Petitioner, it is alleged that he along with his associates and the passport applicants had hatched a calculated and premeditated conspiracy to obtain Indian Passports for individuals, who were not eligible for the same, using forged and fabricated identity and residence proofs. That Petitioner while posted at the South-East Zone, Special Branch, cleared a total of 31 passport verifications of alleged passport applicants between July 2019 and September 2019. The Petitioner did not visit the addresses provided in the passport applications. The owner of the premises were not examined and therefore the alleged verification was not conducted by the Petitioner as he never resided at their addresses. During investigation, it is also revealed that the alleged passport holders, who were detained on different airports due to their LOCs and subsequently arrested in this case, are Afghan Nationals.

3. Counsel for the Petitioner, on the other hand, submits that the Petitioner has been wrongly implicated in the FIR due to internal departmental issues and grudges borne by his colleagues. It is submitted that the alleged forgery and fabrication of documents, if any, is between the agent who would have assisted the passport applicants and the Petitioner is not involved. This is argued by highlighting the fact that the police verification reports were not even undertaken when the passports were

⁴ “LOC”



issued to the Applicants. He further submits that the Petitioner has joined investigation and appeared before the IO on six occasions. The Petitioner's statement has been recorded thrice and he will continue to cooperate in investigation as and when called for. Additionally, the FIR was recorded in 2019 and till date the investigation has not yielded any evidence that would substantiate a link between the Petitioner and the purported crime. Furthermore, while chargesheet has not been filed qua the Petitioner, the Chargesheet has already been filed against all other accused, which indicates that the custodial interrogation of the Petitioner was not required during the course of the Investigation. At this juncture, when the investigation was ongoing and the Petitioner is fully cooperating, there is no reason for the State to demand custodial interrogation.

4. Mr. Sanjeev Bhandari, ASC for the State, strongly opposes the application. He submits that the Petitioner being a police officer ought to have fulfilled the duty casted upon him. The verification required to be done by the police for issuance of the passport is a crucial formality. The Petitioner's involvement and the role played by the Petitioner has to be further investigated, for which the custodial interrogation is necessary.

5. The court has considered the aforementioned submissions. The allegations as made against the Petitioner, are largely based on documentary evidence. These documentary evidences, being in the nature of the fake identify proof, lack of verification allegedly done by the Petitioner by visiting the addresses the witnesses of the Applicant, can therefore be asserted on the basis of the documents which have been gathered by the prosecution during the course of investigation. Furthermore, while it is well established that anticipatory bail cannot be granted as a matter of routine, it is equally undeniable that an



arrest carries with it a significant degree of humiliation and social stigma. Therefore, the Court must strike a balance between ensuring the fair administration of justice and safeguarding the Applicant's right to personal liberty. In cases where the accused has joined investigation and is cooperating with the Investigating Agency and is not likely to abscond, custodial interrogation should be avoided. The Petitioner is a police official, who has clean antecedents and has been cooperating in investigation. Therefore, in the opinion of the Court, at this juncture, custodial investigation should be avoided.

6. In light of the foregoing, the Application is allowed. Consequently, the Petitioner in the event of arrest, is directed to be released on bail on furnishing a personal bond in the sum of Rs. 50, 000/- with one surety of the like amount subject to the satisfaction of the arresting officer/IO/SHO concerned, on the following conditions:

- a. The Petitioner shall join and cooperate with the investigation as and when directed by the IO;
- b. In case the Petitioner fails to join the investigation, the State shall at liberty to move appropriate application;
- c. The Petitioner shall not leave the country without informing the IO/SHO concerned;
- d. The Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- e. The Petitioner shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times
- f. In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/Court



concerned by way of an affidavit.

7. It is clarified that any observations made in the present order are 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.

8. Accordingly, the bail application along with pending applications, if any, is disposed of.

SANJEEV NARULA, J

JANUARY 14, 2025

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