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

+ **BAIL APPLN. 4650/2024**

VIJAY PAL

.....Petitioner

Through: **Mr. Anurag Jain and Mr. Haneef
Mohammad, Advocates.**

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Mr. Sanjay Lao, SC (CrI.) with
Mr. Amit Ahlawat, APP for State.
Mr. Pankaj Tyagi, Advocate for R-2.
Mr. Neeraj Tokas, ACP, Mr.
Bhanupratap, Insp. and Ms. Khushbu,
SI, PS-GK-I.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **03.02.2025**

1. The instant application has been filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of bail in FIR No. 362/2024 dated 2nd September, 2024, registered at P.S. Greater Kailash for the offence under Sections 354/354(A)/506/509/34 of the Indian Penal Code, 1860¹ and Section 10 of the Protection of Children from Sexual Offences Act, 2012².

2. On 18th December, 2024, this Court passed the following order:

"1. The present application u/s 483 BNSS r/w Section 528 BNSS (u/s 438CR.P.C r/w Section 482 CR.P.C) has been filed for grant of anticipatory Bail in FIR No.362/2024 u/s 354/354A/506/509/34 IPC & 10 POCSO, registered at PS. Greater Kailash.

¹ "IPC"

² "POCSO Act"



2. *Learned counsel for the petitioner submits that the present FIR, dated 02.09.2024, arises from a complaint filed on 02.05.2024. He submits that this is a case where the complainant has misused and abused the process of law, and the police have acted negligently in the matter. Learned Counsel further submits that on 01.07.2024, the petitioner had lodged a complaint with the concerned SHO, alleging that the victim's mother, i.e., the complainant, was engaged in illegal activities. He also submits that the Trial Court dismissed the petitioner's application solely on the ground that proceedings under Section 82 Cr.P.C. had been initiated against him. Learned counsel submits that it is contrary to the judgment of the Apex Court in Asha Dubey v. The State of Madhya Pradesh [Criminal Appeal No. 4564/2024], where, vide order dated 12.11.2024, the Supreme Court held that the issuance of a declaration under Section 82 Cr.P.C. does not automatically impose a blanket bar on considering an application for anticipatory bail.*

3. *Issue notice. Learned APP has accepted the notice.*

4. *Learned APP submits that the allegation against the petitioner are serious in nature and he has not been joining the investigation. Learned APP seeks time to file the detailed status report.*

5. *Investigation Officer Khushboo, PS Greater Kailash, submitted that the FIR was lodged after some delay as the complainant initially filed a complaint under Section 200 Cr.P.C. However, a perusal of the chargesheet indicates no such thing. The Court is oblivious as to on what basis the IO made this statement before the court. Furthermore, the police file discloses that an earlier complaint dated 02.05.2024 was filed, and the IO stated that it contained no allegations under POCSO, with a subsequent complaint being filed on 08.05.2024. Notably, the FIR was lodged based on the complaint dated 02.05.2024. On the face of it, the police have acted negligently, carelessly, and in blatant violation of the provisions of the law.*

6. *Let SHO concerned and ACP be called to explain why in such a serious case there is a delay of four months in the registration of FIR.*

7. *Let status report be filed.*

8. *Issue notice to the prosecutrix/victim through IO.*

9. *List on 03.02.2025.*

10. *In the meantime, no coercive steps be taken against the petitioner subject to the petitioner joining the investigation as and when directed by the IO."*

3. Consequent to the aforementioned directions, the Applicant has joined the investigation and has appeared before the Investigating Officer.

4. As regards the queries raised by this Court in Paragraph No. 6 of the aforementioned order, Mr. Sanjay Lao, Standing Counsel for the State has



apprised the Court that there was no direction from the Trial Court for registration of FIR under Section 156(3) of the Code of Criminal Procedure, 1973.³

5. Mr. Lao states that a supplementary chargesheet *qua* the Applicant will be filed within three weeks from today. He submits that in case the Applicant is required for further investigation, notice will be served on him. The said statement is taken on record.

6. Regarding the concerns raised by the counsel for the Complainant, Mr. Lao assures that whenever the Prosecutrix/Complainant is required to testify before the Trial Court, an intimation shall be provided to the concerned SHO, so appropriate protection and arrangements can be made to ensure the Complainant can depose freely.

7. Since the Applicant has already joined investigation and according to Mr. Lao, no custodial interrogation is necessary, application is allowed. It is directed that in the event of the Applicant's arrest, he shall be released on bail with the following conditions:

7.1 The Applicant will not leave the country without prior permission of the Court.

7.2 The Applicant shall provide his permanent address to the Trial Court. The Applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.

7.3 The Applicant shall appear before the Court as and when the matter is taken up for hearing.

7.4 The Applicant shall join investigation as and when called by the concerned IO.

³ "CrPC"



7.5 The Applicant shall provide all mobile numbers to the concerned IO, which shall be kept in working condition at all times. The Applicant shall not switch off his phone or change his mobile number without prior intimation to the concerned IO.

7.6 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 above directions, the petition is disposed of.

SANJEEV NARULA, J

FEBRUARY 3, 2025

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