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

+ BAIL APPLN. 4683/2024 & CRL.M.A. 38324/2024

SOM SINGH

.....Petitioner

Through: Mr. Sachin Kashyap, Advocate
versus

STATE GOVT. OF NCT OF DELHIRespondents

Through: Mr. Nawal Kishore Jha, APP for the
State
SI Dharamveer, P.S. Chhawala

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **24.01.2025**

1. The present application has been filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhiyta, 2023 (BNSS) seeking grant of Anticipatory Bail in FIR No. 406/2024 registered under Sections 221/132/121(1)/3(5) of Bharatiya Nyaya Sanhita, 2023 ('BNS') at Police Station (PS) Chhawala, Delhi.

2. As per the case of the prosecution an information was received vide D.D. No. 11A regarding a fight with the police officials. The Investigating Officer (IO) reached the spot i.e., Bhai Bhai Road Gali No. 32, Qutub Vihar Phase-I. It is stated that on enquiry it was told that Head Constable i.e., Umed and Constable i.e., Pradeep are taken to hospital. The statement of the Head Constable i.e., Umed was recorded and FIR No. 406/2024 under Sections 221/132/121 (1)/3(5) of the BNS was registered. The Complainant revealed that both the constables were patrolling and at around 1:20 AM found a car no. HR-16AB 4582 which was parked in suspicious circumstances with all windows closed. On inspection it was found that there were four (4) persons present in the car under the influence of alcohol.



On being enquired one of the persons in the car started abusing the constables and thereafter, all 4 of them came out of the car and started beating the constables. Constable Moti Lal was also on patrolling when he saw the incident he rushed to the spot and apprehended one person i.e., Vikas sitting on the driver seat when they were all trying to flee away. Vikas revealed the name of other co-accused including the name of Applicant herein.

3. Learned APP states that the Custodial Interrogation of the Applicant is required as TIP proceedings of the accused/Applicant is yet to be done. He states that the Complainant has received simple injury.

4. Learned counsel for the Applicant states that the Applicant has in the application at paragraph '6' categorically admitted that he was present at the spot of the incident when the incident is alleged to have happened.

4.1 He states that the Applicant does not dispute his presence at the site, however, the Applicant disputes the version of the complainant.

4.2 He states that the Applicant has also filed an affidavit dated 23.01.2025 categorically admitting his presence at the spot.

4.3 He states that since presence of the Applicant is not disputed there is no requirement of a TIP being conducted.

4.4 He states that the Applicant remains ready and willing to join the investigation as and when called for by the IO.

4.5 The original of the Applicant's affidavit dated 23.01.2025 has been handed over to the Investigating Officer (IO). The Applicant shall ensure that the copy of the affidavit comes on record.

5. This Court has heard the learned counsels for the parties and perused the record.



6. Before adverting to the facts of the present case it would be imperative to refer to the judgments of the Supreme Court on the subject matter of anticipatory bail.

6.1 The Supreme Court in **Prasanta Kumar Sarkar v. Ashish Chatterjee**¹, and **State of Uttar Pradesh v. Amaramani Tripathi**², and **Deepak Yadav v. State of Uttar Pradesh**³, carved out the conditions to be considered by Court while granting bail, which are summarized as under:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by the grant of bail.

6.2 Further the Supreme Court in the case of **Sumitha Pradeep v. Arun Kumar**⁴ while dealing with the conflicting aspect of need for custodial interrogation and anticipatory bail held that even in the cases where custodial interrogation is not required, the Court cannot overlook the test of whether prima facie case has been made out against the accused by the prosecution. The relevant paragraph reads as under:

¹ (2010) 14 SCC 496.

² (2005) 8 SCC 21.

³ (2022) 8 SCC 559.

⁴ (2022) 17 SCC 391.



“In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

7. In the facts as noted above, the Applicant has in the affidavit dated 23.01.2025 admitted his presence at the spot of the incident. Therefore, ground furnished by the learned APP for seeking custodial interrogation stands addressed.
8. The Applicant is a retired Lance Naik of the Indian Army and has roots in the society. The Applicant herein has no criminal antecedents and no criminal case is pending against him. Further the Applicant is a permanent resident of Chhawala, North-West, Delhi, therefore, there is no apprehension of him being at flight risk. There are no witnesses which the Applicant is likely to influence as all the witnesses are police officials. Admittedly the injury suffered by the Complainant as per the Status Report is Simple Injury.
9. In light of the above, the Court is of the considered opinion that the



Applicant is entitled to anticipatory bail in FIR No. 406/2024 registered under section 221/132/121(1)/3(5) of BNS at P.S. Chhawala. Consequently, in the event of arrest, the Applicant be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the arresting officer/IO/SHO concerned, further subject to the condition that the Petitioner will join investigation as and when directed and not influence any witness/complainant/victim or tamper with evidence of the case.

10. The Applicant will appear before the IO on **27.01.2025** at **4:00 P.M.** and such other date as directed by the IO. The Applicant shall join and cooperate with the investigation. Further the Applicant is bound down to the statement made before this Court today.

11. Accordingly, the present application is disposed of. Pending applications (if any) are disposed of as infructuous.

12. It is made clear that this Court has not dealt with the merits of the case and has restricted itself to the question of whether anticipatory bail can be granted to the Applicant or not. The observations made hereinabove shall nowhere affect the merits of the case during trial.

13. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

JANUARY 24, 2025/msh/sk

[Click here to check corrigendum, if any](#)