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

+ **BAIL APPLN. 4796/2024**

SHWETA SINGH

.....Petitioner

Through: **Mr. Anand Prakash, Advocate**

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Mr. Sanjeev Sabharwal, APP for State
along with ASI Rajesh Kumar, PS:
R.K. Puram**

+ **BAIL APPLN. 232/2025**

YOGESH CHAUDHARY

.....Petitioner

Through: **Mr. Anand Prakash, Advocate**

versus

STATE (NCT OF DELHI)

.....Respondent

Through: **Mr. Sanjeev Sabharwal, APP for State
along with ASI Rajesh Kumar, PS:
R.K. Puram**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **27.01.2025**

1. The present petitions have been filed seeking anticipatory bail in FIR No.381/2016 registered at Police Station P.S. R.K Puram, under Section 406 IPC. Chargesheet was filed under Sections 406/468/471/34/174A IPC.
2. The Applicant-Shweta Singh in Bail Application no. 4796/2024 is the wife of the Applicant-Yogesh Chaudhary in Bail Application 232/2025. Since both the bail applications arise out of the same FIR and there is



similarity of facts as well, therefore, both the applications are heard together and decided by this common order.

3. The case of the prosecution is that on 22.08.2016, the Court of learned MM passed an order to lodge the subject FIR at the instance of complainant Smt. Nupur Singh with regards to the embezzlement of her vehicle/car [Toyota Fortuner] bearing registration no. DL-10-CE-6262. And the FIR was therefore registered on 25.08.2016.

4. It is stated that during investigation the complainant stated that the said Car was taken away by Applicant/Yogesh Chaudhary by making a false representation. The complainant stated that she or her husband never signed or handed over any papers to Applicants herein, however, the registration of the Car was transferred in name of Applicant/accused Shweta Singh on the basis of forged documents. It is stated that Form nos. 29 & 30, allegedly filled on 01.12.2015, which were required for transfer of vehicle were submitted by accused for registration. It is stated that however on the said date i.e., 01.12.2015 the husband of complainant namely Amit was in Judicial Custody, in whose name the abovesaid vehicle was earlier registered and therefore he could not have signed the forms.

5. It is stated that, thereafter, the accused persons transferred the vehicle in name of one Mr. Jagdeep and also forcibly took away the vehicle from the said Mr. Jagdeep, regarding which FIR No. 555/2016 P.S. Miyanwali Nagar was lodged.

6. It is stated that the during investigation, efforts were made to trace the accused persons i.e. Applicant/Yogesh Chaudhary and his wife, Applicant/Shweta Singh, however both were found absconding. Accordingly, Non-Bailable Warrants [NBWs] was obtained against them



from the concerned Trial Court vide order dated 17.09.2022. Since the NBW's could not be executed, therefore, on 22.09.2022 proceedings under Section 82 of Code of Criminal Procedure (Cr.P.C) were initiated and executed against the Applicants which resulted declaring the Applicants as a 'Proclaimed Offender' on 02.12.2022 by learned ACMM-II, Patiala House Courts, Delhi. Accordingly, Section 174A of IPC was added in the case; investigation was concluded and final chargesheet against the proclaimed persons were filed before the Court of learned ACJM, Patiala House Court [Trial Court]. It is stated that the matter is next listed before the Trial Court on 01.07.2025.

7. Learned counsel for the Applicants states they have been falsely implicated in this matter. As per the Applicants the said Car was handed over to the Applicant i.e. Yogesh Chaudhary in relation to a loan of Rs.20 lacs, taken by the friend of the complainant namely Mr. Nitin Sharma from the Applicant Yogesh Chaudhary. It is stated that since the Mr. Nitin Sharma was unable to return the loan amount, therefore, recovery proceeding under Section 138 Negotiable Instruments Act, 1881 were initiated against Mr. Nitin Sharma by the Applicant i.e. Yogesh Chaudhary.

7.1. He states that the complainant stood as a guarantor for Mr. Nitin Sharma. He states that in order to discharge the said loan, the complainant handed over her husband's Fortuner Car along with Form nos. 29 and 30. He states that these transactions took place in October 2015 and NOC for the vehicle in question reflecting the hypothecation as well has been cleared by the ICICI Bank, therefore no alleged offence as claimed by the complainant has been committed by the Applicant.



7.2. He states that notices were issued under Section 41A Cr.P.C. to the Applicants at the erstwhile address in Paschim Vihar. He states Applicants did not reside at Paschim Vihar. He states that Applicants had changed their address on 08.11.2016 to the B-93, Top Floor, LIC Colony, Paschim Vihar. He states that Applicants had no knowledge of the notices or the NBWs or the Section 82 Cr.P.C. proceedings. He states that the non-joining of investigation was for the aforesaid reasons. He states that the Applicants undertake to join investigation as and when directed by this Court or as required by the police officials/IO.

7.3. He states that dispute in the FIR no. 558/2016 registered at PS Miyanwali Nagar stands settled as recorded by learned MM-08 (West), Tis Hazari Court vide order dated 14.03.2024.

8. Learned APP for the State states that the Applicants have not filed revision against the process issued under 82 CrPC, therefore, process u/s 82 CrPC has attained finality and anticipatory bail is not maintainable.

8.1. He submits that as per the directions passed by this Court vide order dated 24.12.2024 in the Bail Application no. 4796/2024, Ms. Shweta Singh have joined the investigation of the case on 18.01.2025 and vide order dated 21.01.2025 passed in Bail Application 232/2025; Mr. Yogesh Chaudhary on 24.01.2025 has also joined investigation and produced the vehicle in question [Toyota Fortuner] and the same has been seized through seizure memo.

8.2. He states that the investigation is complete and the Applicants at this stage are not required for any further investigation.



8.3. He states that Applicants have been declared as ‘proclaimed offender’ before and there is a reasonable likelihood that the Applicants may abscond or flee and evade the process of law.

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

10. Before advertng 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.

11. The Supreme Court in the case of **Siddharam Satlingappa Mhetre v. State of Maharashtra**¹ while dealing with the law vis-à-vis for grant of anticipatory bail has succinctly observed as under:

“85. It is a matter of common knowledge that a large number of undertrials are languishing in jail for a long time even for allegedly committing very minor offences. This is because Section 438 CrPC has not been allowed its full play. The Constitution Bench in Sibbia case [(1980) 2 SCC 565 : 1980 SCC (Cri) 465] clearly mentioned that Section 438 CrPC is extraordinary because it was incorporated in the Criminal Procedure Code, 1973 and before that other provisions for grant of bail were Sections 437 and 439 CrPC. It is not extraordinary in the sense that it should be invoked only in exceptional or rare cases. Some Courts of smaller strength have erroneously observed that Section 438 CrPC should be invoked only in exceptional or rare cases. Those orders are contrary to the law laid down by the judgment of the Constitution Bench in Sibbia case [(1980) 2 SCC 565 : 1980 SCC (Cri) 465].

.....

88. The gravity of charge and the exact role of the accused must be properly comprehended. Before arrest, the arresting officer must record the valid reasons which have led to the arrest of the accused in the case diary. In exceptional cases the reasons could be recorded immediately after the arrest, so that while dealing with the bail

¹ (2011) 1 SCC 694



application, the remarks and observations of the arresting officer can also be properly evaluated by the court.

89. It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided.

90. A great ignominy, humiliation and disgrace is attached to the arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.”

(Emphasis supplied)

12. Further it would be relevant to refer to the judgment of the Supreme Court in **Bharat Chaudhary and Anr. vs. State of Bihar and Anr.**², wherein it has been observed that there is no restriction in Section 438 of the Code of Criminal Procedure, 1973 (CrPC) to grant anticipatory bail even when charge sheet has been filed or cognizance has been taken. The relevant portion of the said judgment reads as under: -

“7. From the perusal of this part of Section 438 of CrPC, we find no restriction in regard to exercise of this power in a suitable case either by the Court of Session, High Court or this Court even when cognizance is taken or a charge-sheet is filed. The object of Section 438 is to prevent undue harassment of the accused persons by pre-trial arrest and detention. The fact, that a court has either taken cognizance of the complaint or the investigating agency has filed a charge-sheet, would not by itself, in our opinion, prevent the courts concerned from granting anticipatory bail in appropriate cases. The gravity of the offence is an important factor to be taken into consideration while granting such anticipatory bail so also the need

² (2003)8 SCC 77



for custodial interrogation, but these are only factors that must be borne in mind by the courts concerned while entertaining a petition for grant of anticipatory bail and the fact of taking cognizance or filing of a charge-sheet cannot by itself be construed as a prohibition against the grant of anticipatory bail. In our opinion, the courts i.e. the Court of Session, High Court or this Court has the necessary power vested in them to grant anticipatory bail in non-bailable offences under Section 438 of CrPC even when cognizance is taken or a charge-sheet is filed provided the facts of the case require the court to do so.”....

(Emphasis supplied)

13. In the facts as noted above, the very fact that the Applicants have joined and cooperated during investigation without arresting them and vehicle in question [Toyota Fortuner] has also been produced by the Applicants during investigation, which stands seized through seizure memo shows that the custody of the Applicants if not required. Admittedly, the chargesheet in the present case stands filed before the learned Trial Court and no useful purpose will be served by keeping the Applicant in judicial custody. Moreover, as per the status report filed by the State there has been nothing on record to show that the Applicants has not co-operated in the investigation.

14. In light of the above, the Court is of the considered opinion that the Applicants are entitled to anticipatory bail in FIR No. 381/2016 registered at P.S. R.K. Puram. Consequently, it is directed that in the event of arrest, the Applicants are 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, and further subject to the condition that Petitioner will join investigation as and when directed and not influence any witness/complainant/victim or tamper with evidence of the



case. The Applicants shall provide their mobile number(s) to the Investigating Officer. In case of change of current residential address and / or mobile number, the Applicants shall intimate the same to the Investigating Officer/Court concerned by way of an affidavit.

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

16. 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 Applicants or not. The observations made hereinabove shall nowhere affect the merits of the case during trial or the proclaimed offenders proceedings initiated against the Applicants.

17. 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 27, 2025/MS/hp