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

+ **BAIL APPLN. 938/2026, CRL.M.A. 8861/2026**

PRAKASH VAISHNAV

.....Applicant

Through: Mr. Bharat Monga, Mr. Arvind
Malik and Mr. Pushpender, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP with Ms.
Upasna Bakshi, Mr. Adiya Vikram
Singh and Mr. Dinesh Kumar,
Advs. with Insp. Yakub Khan, PS:
NDRS

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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06.04.2026

1. By virtue of the present application under *Section 482* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), the applicant seeks grant of anticipatory bail in e-FIR No.80101765/2025 dated 26.10.2025 registered at PS.: New Delhi Railway Station under *Sections 303(2)/3(5)* of Bharatiya Nyaya Sanhita, 2023 (**BNS**).

2. *Succinctly put*, an e-FIR was registered based on the complaint of the complainant, which reveals that on 23.10.2025 the complainant along with his employee (**applicant**) and one Mr. Dayama Natwar Rameshwar Lal, (**co-accused**) were near the Bus Parking at the New Delhi Railway Station when the complainant requested them to look after his belongings



and briefly went to the toilet. Upon return, he discovered that both individuals had fled with his possessions, including approximately 800 gms. of gold, certain documents, and his luggage. During investigation on 27.10.2025, as per the supplementary statement of the complainant whilst registering the e-FIR, he had wrongly mentioned the weight of the gold as 800 gms. whereas the total gold actually amounted to a total weight of 4000.120 gms. for which a receipt thereof was also furnished.

3. Subsequently, since the applicant was not traceable at his available address in Rajasthan on 03.11.2025 and 15.11.2025, Notice(s) under Section 35(3) of the BNSS to join investigation on 06.11.2025 and 18.11.2025 respectively were affixed thereon. Since he failed to appear, his CDR was obtained, and the same revealed that his phone was switched off since 22.10.2025.

4. Learned counsel for the applicant submits that the applicant was not in Delhi on the date of the alleged incident, i.e., 23.10.2025 as he was in Odisha then. The applicant only came to know about the existence of the present e-FIR from the co-accused when the police officials came to threaten him at his shop. Consequentially, a petition seeking quashing of the e-FIR has already been filed by the applicant and the co-accused, whereby this Court issued notice therein.

5. Learned counsel also submits that there are major discrepancies/ improvement in the version of the complainant, especially, considering the substantial change in the amount of gold stolen as also the fact that the present e-FIR was filed belatedly. These, *ipso facto*, raises suspicion on the entire offence as alleged.

6. Learned counsel then submits that the co-accused was granted



anticipatory bail by the learned Trial Court *vide* order dated 03.01.2026 as his presence was not required by the Investigating Officer, as such, the applicant is liable to be granted anticipatory bail on the ground of parity.

7. *Per contra*, learned APP for State, relying upon the Status Report, submits that it is *admitted* position that the applicant was not traceable earlier even though Non Bailable Warrant were issued against him by the learned Trial Court *vide* order dated 02.02.2026, and then on 07.03.2026. Also, in between his application seeking anticipatory bail was dismissed *vide* order dated 17.02.2026 by the learned Trial Court. It is only thereafter that he has joined investigation pursuant to the direction of this Court, however, he had not cooperated. Moreover, his custodial interrogation is required for recovering the gold. As such, the present application is liable to be dismissed.

8. Heard learned counsel for the applicant and the learned APP for State as also perused the documents and Status Report on record.

9. As borne from the above, there is no qualm about the fact that as per the CDR of the applicant his mobile phone was switched off since 22.10.2025 and that he was untraceable from his last known address despite the affixation of Notice(s). The applicant never participated in investigation till the dismissal of his application for anticipatory bail by the learned Trial Court. The above reflect his conduct, which is very relevant whence this Court is dealing with his application wherein he is seeking grant of anticipatory bail from this Court.

10. Also, based on the contents of the e-FIR his custodial interrogation is essential to ascertain the whereabouts of the stolen gold. More so, whence it is the case of the learned APP that he is merely joining



investigation but not participating therein.

11. Under these circumstances, whence it is a settled law that the gravity and nature of the offence, role of the applicant and the facts of the case have to be cumulatively taken into consideration while adjudicating a anticipatory bail application as per the guidelines emanating from the judgement of the Hon'ble Apex Court in ***Sushila Aggarwal vs. State (NCT of Delhi) & Anr.: (2020) 5 SCC 1***, this Court has to be cautious in granting anticipatory bail to the applicant.

12. Therefore, cumulatively taken, and in view of the afore-going, the present anticipatory bail application, along with the pending application is dismissed.

13. Observations hereinabove, if any, being tentative in nature, will not come in the way of any subsequent proceedings.

SAURABH BANERJEE, J

APRIL 6, 2026/Ab