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

\+ BAIL APPLN. 1291/2026, CRL.M.A. 10156/2026, CRL.M.A. 10157/2026

DHARMINDER SHARMA .....Petitioner

Through: Mr. Madhav Khurana, Sr. Adv with Mr. Udit Arora, Mr. Teeksh Singhal, Mr. Md. Sahil Reza Khan, Advocates.

versus

STATE OF NCT OF DELHI & ANR. .....Respondent

Through: Mr. Sanjeev Bhandari, ASC with Mr. Arijit Sharma, Ms. Sakshi Jha, Advocates for State.
Mr. Anurag Ahluwalia, Sr. Advocate with Mr. Nishant Anand, Ms. Gunjan Bansal, Mr. Dipanshu Gaba and Mr. Tarun Choudhary, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

<u>O R D E R</u>

% **07.04.2026**

1. By way of this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks anticipatory bail in connection with FIR No. 176/2024, dated 05.09.2024, registered at Police Station Crime Branch, New Delhi, under Sections 420/120B of the Indian Penal Code, 1860.

2. I have heard Mr. Madhav Khurana, learned Senior Counsel for the

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petitioner, Mr. Sanjeev Bhandari, learned Additional Standing Counsel for the State, and Mr. Anurag Ahluwalia, learned Senior Counsel for respondent No. 2-complainant.

3. Mr. Bhandari has filed a status report, from which the prosecution case may be summarised as follows:

A. The FIR was registered on 05.09.2024 at the instance of respondent No. 2 on the allegation that the petitioner and co-accused Gaurav Verma induced her to invest a substantial amount in a business investment programme for the purpose of immigration to Canada. The petitioner represented himself to be Director (Operations) of GIES Immigration Inc. [hereinafter, "GIES"] and co-accused Gaurav Verma represented himself to be President and Regulated Canadian Immigration Consultant of GIES.

B. These individuals induced respondent No. 2 to make an investment in a restaurant business in Canada, by the name of "*Gonga's Grill*", with the assurance that such an investment would ensure grant of a work permit and immigration. Respondent No. 2 was promised 50% share in the said restaurant business.

C. A company by the name of Aadya's Hospitality Limited [hereinafter, "AHL"] was registered in Ontario, Canada, and its only shareholder and Director was an individual, one Dan Cuzack. The respondent No. 2 was informed that the business of the aforesaid restaurant would be operated by AHL, which was, in fact, formed in the name of the daughter of respondent No. 2 – Aadya.

D. On the basis of the aforesaid representations, respondent No. 2 transferred an amount of CAD 2,50,000/- to the account of AHL,

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and also paid a sum of CAD 45,000 to the accused persons towards their professional fees.

E. Despite the aforesaid, respondent No. 2's visa application was rejected on three occasions, and the amount paid by her was also not refunded by the accused or by Dan Cuzack.

F. In the course of investigation, it was revealed that respondent No. 2 was, in fact, never made a shareholder or Director in AHL, despite the aforesaid investment.

G. It was also discovered that an amount of CAD 2,25,000 was transferred into AHL's account at Royal Bank of Canada by respondent No. 2 on 29.11.2021, out of which CAD 2,16,000/- was withdrawn in cash between January and March 2022, giving rise to the suspension of misappropriation, rather than use for legitimate business purposes.

H. As far as the role of the present petitioner is concerned, it is stated in the status report that he was the primary point of contact for respondent No. 2, and played an active role in structuring the transaction, facilitating communication with foreign entities, and also persuaded respondent No. 2 to continue with the aforesaid transactions, despite rejection of her visa applications.

I. The prosecution relies upon e-mail communications, and WhatsApp interactions to establish a case of conspiracy between the petitioner and co-accused Gaurav Verma.

J. The amounts remitted by respondent No. 2 have not yet been recovered. The money trail, identification of beneficiaries, and foreign links are still required to be investigated.

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4. Prior to filing the present bail application, the petitioner had approached the Sessions Court, and was granted interim protection *vide* order dated 22.01.2026, subject to joining and cooperating in the investigation. His application was, however, ultimately rejected by the Sessions Court *vide* order dated 20.02.2026, *inter alia*, on the ground that the petitioner had joined investigation, but did not produce the documents regarding the money trail, particularly concerning the amount deposited by respondent No. 2 in the account of AHL. The Sessions Court declined anticipatory bail, also having regard to the gravity of offence and the fact that the investigation was at the initial stage.

5. Mr. Khurana, in support of this application, submits as follows:

a) The petitioner was merely an employee of GIES, and the main mastermind of the said concern was, in fact, co-accused Gaurav Verma.

b) The petitioner did not own or control any account into which remittances were made by respondent No. 2, and that the transaction *albeit* for the purposes of immigration, was essentially an investment transaction between respondent No. 2 and Dan Cuzack, with whom she was also directly in contact.

c) The FIR itself shows that the main grievance of respondent No. 2 relates to non-refund of the money remitted by her, for which the present petitioner is not responsible.

d) Respondent No. 2 was, in fact, referred to the petitioner by one Pankaj Joshi, Managing Director of Nysa Global, but these leads have not been investigated at all, despite the petitioner having disclosed their involvement to the Investigation Officer [“IO”].

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e) The petitioner had fully cooperated with the IO, during the period he was granted interim protection by the Sessions Court, and undertook that the petitioner will continue to cooperate with the investigation.

6. Mr. Bhandari and Mr. Ahluwalia, on the other hand, oppose the grant of anticipatory bail, relying upon the contents of the aforesaid status report, and on the ground that the investigation remains ongoing. They submit that the alleged offences are grave, with respondent No. 2 having been induced to part with a sum of CAD 2,95,000 [equivalent to approximately Rs. 1.83 crores]. As far as the *prima facie* case against the petitioner is concerned, learned counsel handed over a copy of agreement dated 14.04.2021, between GIES and respondent No. 2, in which GIES undertook to perform services including "*net-worth assessment and business plan finalisation*" as well as "*arranging approval for federal application*". The agreement also provided for the fees of CAD 45,000/- to be paid to GIES. This agreement was signed by the petitioner describing himself as "*Director of GIES*". The said agreement is taken on record. Learned counsel also handed over a copy of the account statement of AHL showing the credit of CAD 2,25,000 on 29.11.2021, and cash withdrawals of over CAD 2,15,000/- between 01.12.2021 and 07.03.2022. The account statements are also taken on record.

7. Before dealing with the facts of the present case, it may be borne in mind that the petitioner seeks anticipatory bail, which the Supreme Court has described as an "*extraordinary*" remedy. Reference in this connection

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may be made to *Srikant Upadhyay and Ors. v. State of Bihar and Anr.*[1], where the Court observed as follows:

> *"30. We have already held that **<u>the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the court depending on the facts and circumstances of each case</u>**. While called upon to exercise the said power, **<u>the court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence</u>**. We shall not be understood to have held that the court shall not pass an interim protection pending consideration of such application as the section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases….."*[2]

8. While adjudicating an application for anticipatory bail, the Court is thus required to balance the public interest in a fair and effective investigation, with the interest of the accused in his personal liberty. The Court has, in *State v. Anil Sharma*[3], emphasised the effectiveness of custodial interrogation, as opposed to investigation when the accused is clothed with the protection of the Court:

> *"6. **<u>We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code</u>**. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of*

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[1] (2024) 12 SCC 382.
[2] Emphasis supplied.
[3] (1997) 7 SCC 187.

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> *the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."*[4]

The same view has been recently expressed in *P. Krishna Mohan Reddy v. State of A.P.*[5].

9. Even in the absence of a requirement of custodial interrogation, the Court is required to be circumspect while considering applications for anticipatory bail, with the *prima facie* material available being a significant factor. The Supreme Court in *Sumitha Pradeep v. Arun Kumar C.K.*[6], held as follows:

> "*12. We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like Pocso and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. 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.* ***<u>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</u>***

4 Emphasis supplied.
5 2025 SCC OnLine SC 1157, paragraph 19.
6 2022 SCC OnLine SC 1529.

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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.”*[7]

10. Applying these principles to the facts of the present case, I am of the view that this is not a fit case for grant of anticipatory bail to the petitioner for the following reasons:

a) The offence involved is a serious one, with respondent No. 2 having parted with a large sum of money [approximately Rs.1.83 crores] on the assurance of the accused that her immigration to Canada would be thus facilitated.

b) The investigation is still ongoing and is at a nascent stage.

c) The petitioner appears *prima facie* to have been a principal point of contact, who was in touch with respondent No. 2 from the inception of the transactions. In fact, the petitioner is the person who has signed the agreement on behalf of GIES with respondent No. 2.

d) His designation as Director of GIES in the said agreement, *prima facie* belies his assertion that he was merely an employee, acting on the instruction of co-accused Gaurav Verma. Even in his response to the questionnaire furnished by the IO, he has described himself as Director (Operations) in GIES, but has not provided the details of the Director/shareholders of GIES.

e) The fact that respondent No. 2 was induced to make a substantial investment in AHL, without any share or directorship having been

[7] Emphasis supplied.

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transferred into her name, is also significant, particularly when coupled with the fact that the vast proportion of the amount remitted was withdrawn in cash within a short period.

f) Quite apart from the sum remitted by respondent No. 2 to AHL, a substantial sum of CAD 45,000/-, was allegedly remitted to GIES itself, which also remains un-refunded. The prosecution, in my view, rightly urges that further investigation is required to trace the aforesaid amounts.

g) In the face of these materials, I also do not find merit in Mr. Khurana’s submission that Pankaj Joshi and Nysa Global have not been investigated by the IO, as the investigation is still in progress.

11. Having regard to the petitioner’s role in facilitating the transaction, I am of the view that the requirement of custodial interrogation cannot be ruled out at this stage, and that, in any event, the *prima facie* material lends credibility to the prosecution case with regard to his involvement in the offence.

12. For the aforesaid reasons, the present application for anticipatory bail, alongwith pending applications, is dismissed.

13. It is clarified that this Court has not made any observation on the merits of the case, and all rights and contentions of the parties in any future application are left open.

PRATEEK JALAN, J

APRIL 7, 2026
‘Bhupi’/AD/

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