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

\+ BAIL APPLN. 1823/2026

AMIT GUPTA .....Petitioner

Through: Mr. Kartik Misra, Mr. Abhinav Bhardwaj, Advs

versus

THE STATE (NCT OF DELHI) .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

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

% 11.05.2026

<u>CRL.M.A. 14766/2026</u> <u>*(for exemption)*</u>

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

<u>BAIL APPLN. 1823/2026</u>

1. By way of this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, the petitioner seeks anticipatory bail in connection with FIR No. 93/2026 dated 20.10.2026, registered at P.S. Sadar Bazar, Delhi, under Section 316(4) of the Bharatiya Nyaya Sanhita, 2023 ["BNS"].

2. This is the second application for anticipatory bail filed by the petitioner before this Court, within three weeks. The first bail application, being BAIL APPLN. 1186/2026, was permitted to be withdrawn by order dated 24.03.2026. The order records that it was passed "*After some arguments*".

3. The present application has been filed without any change of circumstances. The petitioner has also not approached the learned

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Sessions Court afresh. The only argument advanced on behalf of the petitioner in this connection is that a bank statement [Annexure P6] has now been filed, which was not placed before the Court with the earlier application for anticipatory bail.

4. The petitioner had earlier approached the learned Sessions Court for grant of anticipatory bail, which was rejected by order dated 06.03.2026. Copy of the reply filed by the Investigating Officer ["IO"] before the learned Sessions Court has been placed on record.

5. The prosecution case, as it appears from the reply filed by the IO before the learned Sessions Court, is as follows:

A. FIR No. 93/2026 was registered on the complaint of one Rajesh Jain, who stated that he was the owner of a shop selling umbrellas at Pan Mandi, Sadar Bazar, Delhi. The petitioner had been employed for the last five years as a Manager in the said shop, and also looked after the work relating to money transactions and transfers.

B. The complainant allegedly handed over a sum of Rs. 20,00,000/- in cash to the petitioner on 25.11.2025, for disbursement/payment to various persons. It is alleged that the petitioner left the office at around 12:45 P.M. on the same day and did not return thereafter. His mobile phones were also switched off, and his family members were unaware of his whereabouts.

C. The complaint was thereafter made on 17.01.2026 stating that the petitioner had not returned home.

D. The prosecution alleges that the petitioner took the said money from the complainant, but did not distribute the money belonging to his employer as required. Instead, he visited Omaxe Mall, Chandni

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Chowk, and threw his mobile phone into a dustbin in front of the Mall. The petitioner was allegedly captured on CCTV footage along the route carrying the bag in question.

E. The prosecution further alleges that the petitioner thereafter purchased an Apple iPhone and accessories in Ghaziabad by making a cash payment of Rs.1,41,790/-. It is also alleged that he stayed at a hotel until 30.11.2025, where a woman was allegedly visiting him. The petitioner is also stated to have been captured on CCTV footage at the said hotel.

F. The delay in registration of the FIR is sought to be explained on the ground that the petitioner's brother, namely Sumit Gupta, had lodged a missing entry regarding the petitioner at P.S. Sadar Bazar, Delhi, on 26.11.2025, and thereafter, the complainant, reposing trust in the applicant, waited for his return before lodging the FIR.

6. I have heard Mr. Kartik Misra, learned counsel for the petitioner, and Mr. Chauhan, learned Additional Public Prosecutor for the State.

7. As noted above, the petitioner's earlier application for anticipatory bail was dismissed as withdrawn on 24.03.2026. The only new ground upon which the petitioner seeks to rely is that he has now placed before the Court, a bank statement of account No. 924010004131164 in Axis Bank, for the period 01.10.2025 to 31.12.2025. Mr. Misra submits that cash amounts of Rs. 50,000 each have been withdrawn from the said account on 21.11.2025, and again on 25.11.2025. It is suggested that these withdrawals are sufficient to explain the purchase of an iPhone and accessories for the sum of Rs. 1,41,790/- on 25.11.2025 in cash.

8. As far as this aspect is concerned, Ground 'F' in the bail

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application reads as follows:

> *"BECAUSE* ***the petitioner is holder of joint saving bank account with his wife*** *with Axis Bank and on the alleged date of incident i.e.* ***on 25.11.2025, the petitioner withdrew a sum of Rs. 50,000/- from his account and prior to that he also withdrew Rs. 50,000/- on 21.11.2025****, as is evident from the statement of account of the* ***petitioner's bank account****. It is submitted that if the petitioner was having money with him, belonging to the complainant, what was the need for withdrawing money by the petitioner from his bank account. This clearly shows that the allegations are false and frivolous. Copy of statement of bank account of the petitioner is annexed herewith as* ***Annexure P-6.****"*[1]

9. The document itself, however, does not make out the argument advanced on behalf of the petitioner, for the following reasons:

A. The statement shows that the account is in the name of Ms. Niharika Gupta, wife of Mr. Amit Gupta. The petitioner is not shown as a joint holder of the account. Contrary to the assertion in the petition, it appears *prima facie* that it is not the petitioner's account from which these amounts were withdrawn.

B. The petitioner relies upon three ATM withdrawals on 21.11.2025 in the sums of Rs. 20,000/-, Rs. 15,000/-, and Rs. 15,000/-, respectively. However, one transaction of Rs. 15,000/- was immediately reversed. Thus, the total amount withdrawn in cash on 21.11.2025 was Rs. 35,000/-, and not Rs. 50,000/-.

C. Even assuming that an amount of Rs. 85,000/- was withdrawn by the petitioner's wife from her account on 21.11.2025 and 25.11.2025, the petitioner was reported missing from home on 21.11.2025. It therefore remains unexplained as to how this amount came into the petitioner's hands.

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[1] Emphasis supplied.

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D. The total amount alleged to have been spent on the purchase of an iPhone and accessories on 25.11.2025 is Rs. 1,41,790/-, which is substantially higher than the aforesaid amount of Rs. 85,000/-.

E. It remains entirely unexplained as to why this document was not placed before the Sessions Court or this Court in the earlier bail applications.

10. While these remain matters for investigation, I am of the view that the present case, in any event, is not an appropriate one for grant of anticipatory bail. The Supreme Court in *Srikant Upadhyay v. State of Bihar*[2] emphasised the considerations which must prevail in adjudicating an application for anticipatory bail. While characterising anticipatory bail as an "*extraordinary remedy*", the Court cautioned circumspection, in the following terms:

> "*30. We have already held that* ***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.*** *While called upon to exercise the said power,* ***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.*** *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. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously defying orders and keeps absconding is not entitled to such grant.*"[3]

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[2] (2024) 12 SCC 382 [hereinafter, "*Srikant Upadhyay*"].
[3] Emphasis supplied.

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This view has subsequently been followed in *Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. State of Maharashtra and Anr.*[4]

11. The case against the petitioner is still under investigation, and the Court is required to balance the interests of a fair and effective investigation with the possible curtailment of the petitioner's liberty. The allegation against the petitioner concerns a sum of Rs. 20,00,000/-, which was allegedly handed over to him by his employer and remains untraced. The circumstances relied upon by the prosecution include the fact that the petitioner was not reachable on his mobile phone soon after receiving the said amount; that he was missing from home; that he made an expensive purchase in cash soon thereafter; and that he stayed in a hotel for five days, i.e., until 30.11.2025, within the National Capital Region, although he is also a resident of Faridabad. The petitioner had not even informed his family members of his whereabouts during this period. All these circumstances require further investigation.

12. In the light of these allegations and the material on record, it cannot be said that this is a case where the requirement of custodial interrogation of the petitioner can be ruled out altogether. The Supreme Court has clearly held that custodial interrogation is more effective and elicits the truth more efficiently than interrogation while the accused is clothed with the protection of the Court. Reference in this connection may be made to the following observations of the Supreme Court in *State v. Anil Sharma*[5]:

> *"6. **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***

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[4] 2025 SCC OnLine SC 1489, paragraph 18.
[5] (1997) 7 SCC 187.

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__under Section 438 of the Code__. 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 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."[6]

The same view has been expressed in *P. Krishna Mohan Reddy v. State of A.P*[7].

13. Having regard to all the aforesaid factors, I am of the view that the petitioner has failed to demonstrate any change in circumstances entitling him to anticipatory bail in the present application, and, on merits as well, no case for anticipatory bail is made out. The petition is, therefore, dismissed.

14. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application and shall not influence the trial proceedings, nor shall they be construed as an expression of opinion on the merits of the case.

PRATEEK JALAN, J

MAY 11, 2026
Tg/jyh/JM/

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[6] Emphasis supplied.
[7] 2025 SCC OnLine SC 1157, paragraph 19.

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