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

\+ BAIL APPLN. 3784/2023

ARJIT KUMAR ALIAS AJIT DIWAN .....Petitioner

Through: Mr. Durgesh Kumar Pandey, Mr. Arvind Kumar, Ms. Ritika Davis Franklin, Mr. Kartik Dhingra, Mr. Randeep Pundir and Mr. Ravi Thakur, Advocates.

versus

STATE THROUGH SHO PS SPECIAL CELL .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

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

% 30.03.2026

1. By way of the present application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks anticipatory bail in connection with FIR No. 216/2023 dated 12.08.2023, registered at Police Station Special Cell, New Delhi, under Sections 419/468/471 of the Indian Penal Code, 1860 ["IPC"], and Section 12 of the Passports Act, 1967.

2. I have heard Mr. Arvind Kumar, learned counsel for the applicant, and Mr. Yudhvir Singh Chauhan, learned Additional Public Prosecutor for the State.

3. The prosecution has filed two status reports, which are on record.

4. The prosecution case, as revealed in the status reports, may be summarised as follows:

   a. On 01.08.2023, the complainant, who is a Head Constable in the

Immigration Wing at Indira Gandhi International Airport, New Delhi, found that a passenger by the name of Sachin Bishnoi had entered the country without a corresponding departure record. It was discovered that he had departed from India using a fraudulently obtained Indian Passport bearing No. V7629433. The said passport was in the name of '*Tilak Raj Toteja*', but bore the photograph of Sachin Bishnoi.

b. Sachin Bishnoi was arrested on 14.08.2023. In the course of investigation, it was found that he had obtained this passport from one Rahul Sarkar.

c. Rahul Sarkar was arrested on 15.08.2023, and several documents including Aadhaar cards, PAN cards, voter ID cards, cheque books, passbooks, driving licenses, etc., were recovered from him. These included documents in the name of '*Tilak Raj Toteja*'.

d. In his disclosure statement, Rahul Sarkar stated that he was assigned the task of preparing forged ID documents for Sachin Bishnoi by one Navneet Prajapati, and that the present applicant had given Rs.1,50,000/- for this purpose.

5. Upon the applicant being issued notices by the police to join investigation, he sought anticipatory bail before the learned Sessions Court, which was rejected *vide* order dated 27.10.2023.

6. Upon the present application being filed before this Court, interim protection against coercive action was granted by order dated 02.02.2024, recording the following submission on behalf of the applicant:

> "*4. Learned counsel appearing on behalf of the applicant submits that the latter has already been chargesheeted in case FIR No. 255/2022, under Section 25/54/59 of the Arms Act and Section*

465/466/471/474/120B of the IPC, registered at P.S. Saket and the same is pending before the Court of competent jurisdiction. It is pointed out that the aforesaid chargesheet pertains to the same cause of action for which the present applicant has been implicated in the instant FIR. It is further submitted that the applicant cannot be prosecuted twice for the same offence."

7. The aforesaid interim protection has continued for more than two years. It is not disputed that the applicant joined investigation, although there are some allegations of non-cooperation, as recorded in the orders dated 27.08.2024 and 07.08.2025.

8. The principal submission of Mr. Kumar, in support of the present application, is that the FIR concerns an alleged offence, which is already the subject matter of another FIR bearing No. 255/2022, registered at Police Station Saket, District South, New Delhi, under Sections 465/466/471/474/120B of the IPC, and Section 25 of the Arms Act, 1959. He submits that the said FIR also relates to an allegation of forgery concerning the same passport [No. V7629433], in which the same co-accused Rahul Sarkar, has disclosed the involvement of the present applicant. It is contended that the present FIR thus amounts to a second prosecution for the same alleged offence.

9. Mr. Chauhan, on the other hand, draws my attention to the non-cooperation of the applicant as detailed in the second status report, including an allegation that he has failed to disclose the purpose for which certain amounts are allegedly credited to his account from one Radhe Krishan Travels, and was unable to provide a satisfactory explanation for the transaction of Rs. 1,50,000/- from his account to co-accused Rahul Sarkar. It is also contended that the applicant is involved in other criminal cases.

10. In rejoinder, Mr. Kumar submits that the allegation of non-cooperation against the applicant is false. The applicant has joined the investigation and cooperated to the extent that all information within his knowledge has been provided to the Investigating Officer ["IO"]. He submits that the allegation of non-cooperation is, in fact, tantamount to requiring the applicant to give information about which he has no knowledge, as well as to make self-incriminatory statements, contrary to the decision of the Supreme Court in *Bijender v. State of Haryana* [SLP (CRL.) 1079/2024, decided on 06.03.2024] [hereinafter, "*Bijender*"].

11. Mr. Kumar also submits that, out of the seven FIRs enumerated in the status report, three relate to periods more than ten years ago, and one – FIR No. 255/2022 at Police Station Saket – is the very FIR that the applicant claims relates to the same offence, on the basis of which the present FIR has been registered.

12. Having heard learned counsel for the parties, I am of the view that this is a fit case for grant of relief to the applicant. The *prima facie* case against him is based upon the disclosure statement of co-accused Rahul Sarkar. There is no allegation of any recovery of forged documents from the possession of the present applicant. To the extent that he was required to produce information relating to his financial dealings with Radhe Krishan Travels and Rahul Sarkar, it is the contention of Mr. Kumar that the applicant has furnished all the documents in his possession. It is always open to the IO to draw conclusions from those documents, but the failure to produce documents which, according to the applicant, he does not possess, cannot be regarded as non-cooperation. The allegation of non-cooperation cannot be founded on the failure to make self-

incriminatory statements, as held by the Supreme Court in *Bijender* and *Hemant Kumar v. State of Haryana* [SLP (CRL.) 232/2024, decided on 06.03.2024]. The applicant has already been granted interim protection for a period of over two years.

13. As far as the prior criminal involvements of the applicant are concerned, Mr. Kumar rightly submits that three of the seven FIRs are from the years 2000 and 2004. Further, FIR No. 255/2022 is the FIR which the applicant contends concerns the same offence as the present FIR.

14. For the aforesaid reasons, the interim order dated 02.02.2024 is confirmed, and it is directed that in the event of arrest in connection with FIR No. 216/2023 dated 12.08.2023, registered at Police Station Special Cell, New Delhi, under Sections 419/468/471 of the IPC, and Section 12 of the Passports Act, 1967, the applicant shall be released on bail, subject to furnishing a personal bond in the sum of Rs. 25,000/-, with two sureties in the like amount, to the satisfaction of the concerned IO/Station House Officer [“SHO”], and subject to the following further conditions:

a. The applicant shall appear before the concerned IO as and when required, and cooperate with the investigation.
b. The applicant shall furnish his residential address to the concerned IO/SHO, and shall not change the same without prior intimation to the IO/SHO.
c. The applicant shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior

intimation to the IO/SHO.

d. The applicant shall not, directly or indirectly, contact, nor visit, nor offer any inducement, threat, or promise to the family of the deceased, or any of the prosecution witnesses or other persons acquainted with the facts of the case.

e. The applicant shall not, directly or indirectly, tamper with evidence nor otherwise indulge in any act or omission that would prejudice the proceedings in the pending trial.

f. The applicant shall not commit any offence during the pendency of the proceedings.

15. The bail application stands disposed of in the above terms.

16. It is clarified that the observations made herein are solely for the purpose of adjudication of the present bail application, and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.

17. It is specifically made clear that this Court has not rendered any finding on whether the present FIR is, in fact, a second FIR arising out of the same offence, which is a matter for the Sessions Court to consider at the appropriate stage, in accordance with law.

PRATEEK JALAN, J

MARCH 30, 2026
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