



2026:DHC:175



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

Reserved on: January 06, 2026

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Pronounced on: January 09, 2026

+ **BAIL APPLN. 4666/2025, CRL.M.(BAIL) 2391/2025**

BADRUDDIN

.....Applicant

Through: Mr. Musharraf Ali, Adv.

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Raghuinder Verma, APP for State
with Mr. Aditya Vikram Singh,
Advocate and SI Sanjeev, PS: Kalkaji.

+ **BAIL APPLN. 4687/2025, CRL.M.(BAIL) 2402/2025**

BATULAN

.....Applicant

Through: Mr. Musharraf Ali, Adv.

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Raghuinder Verma, APP for State
with Mr. Aditya Vikram Singh,
Advocate and SI Sanjeev, PS: Kalkaji.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT

1. By virtue of the present applications under *Section 482* of the Bharatiya Nagarik Suraksha Sanhita, 2023¹, the applicants, namely

¹ Hereinafter referred to as '*BNSS*'



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Badruddin [*applicant in Bail Application No.4666/2025*] and Mrs. Batulan [*applicant in Bail Application No.4687/2025*], seek grant of anticipatory bail in FIR No.377/2024 registered at Police Station Kalkaji, Delhi, under *Sections 420/406/467/468/471/120B* of the Indian Penal Code, 1860². Since both the applications arise out of the same FIR, they are being taken up together and disposed of by this common judgment.

2. *Briefly put*, an FIR came to be registered on 03.09.2024 on the complaint of Vikas Choudhary³, since the applicant-Badruddin was in dire need of money, he approached the complainant and offered him to sell flat bearing no. A-240, First Floor with roof right, DDA Janta Flats, Kalkaji, New Delhi⁴ belonging to his wife, applicant-Batulan. The complainant agreed to purchase the said property for a consideration of Rs.14,61,600/- coupled with an understanding that the applicants would retain possession thereof for a period of 12 months at a monthly rent of Rs.6,000/- per month. Pursuant thereto, on receipt of the entire consideration amount, applicant-Batulan executed a registered Sale Deed dated 18.01.2021 along with possession letter in favour of the complainant and a Rent Agreement was also executed between complainant and Mr. Mehaboob Kahan, the son of the applicants.

3. As per FIR, when the complainant subsequently sought possession of the flat, the applicants refused to vacate and handover the same to him and further threatened to falsely implicate him. Thereafter, the complainant

² Hereinafter referred to as '*IPC*'

³ Hereinafter referred to as '*complainant*'

⁴ Hereinafter referred to as '*flat*'



discovered that the applicants had previously taken loan *qua* the very same property from various banks on the basis of forged and fabricated documents.

4. Record reveals that during the course of investigation, Non-Bailable Warrants were issued against both the applicants, however, since the same could not be executed, proceedings under *Section 82* of Code of Criminal Procedure⁵ were initiated and both applicants were declared as *proclaimed offender(s)*.

5. Learned counsel for the applicants, at the very outset, submitted that pursuant to Memorandum of Understanding and Settlement dated 20.08.2025, the applicants on 09.10.2025, have paid a sum of Rs.60,00,000/- to the complainant and his brother towards full and final satisfaction of all claims and as such, the disputes *inter se* the complainant and applicants have already been settled. The learned counsel submitted that the complainant has already filed his affidavit expressing his no objection to quashing of FIR No.377/2024. The learned counsel also submitted that the applicants have already joined the investigation and have been co-operating. Even otherwise, relying upon *Asha Dubey v. State of Madhya Pradesh*⁶, the learned counsel submitted that courts can grant anticipatory bail even to a *proclaimed offender* in exceptional circumstances, as also since this is one squarely falls within such exception, mere declaration of the applicants as *proclaimed offenders per se* cannot operate as an absolute bar to grant of anticipatory bail. As such, learned counsel for the applicants seeks their enlargement.

⁵ Hereinafter referred to as '*Cr.P.C.*'

⁶ 2024 SCC OnLine SC 5633



6. Learned APP for the State, opposing the present applications, submitted that the applicants have been declared *proclaimed offender(s)* and as such, relying upon ***Srikant Upadhyay & Ors. vs. State of Bihar & Anr.***⁷, the applicants are not entitled to the relief of anticipatory bail.

7. This Court has heard the counsel for the applicants and the learned APP for the State and perused the documents on record along with the judgements cited.

8. While dealing with release of an accused on bail, even if declared as a *proclaimed offender*, the Hon'ble Supreme Court in ***Lavesh vs. State (NCT of Delhi)***⁸ has held as under:

"12... ..Normally, when the accused is "absconding" and declared as a "proclaimed offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail."

9. Subsequent thereto, Hon'ble Supreme Court had made similar observations from time to time in ***Prem Shankar Prasad vs. State of Bihar***⁹, ***Abhishek vs. State of Maharashtra***¹⁰, and ***Srikant Upadhyay (supra)***.

10. However, the Hon'ble Supreme Court in ***Asha Dubey (supra)*** moving a step further to reinforce the primacy of personal liberty, thereafter, also held

⁷ [2024] 3 S.C.R. 421

⁸ (2012) 8 SCC 730

⁹ 2021 SCC OnLine SC 955

¹⁰ (2022) 8 SCC 282,



as under:

“8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr. P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

9. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses.”

(Emphasis supplied)

11. The Hon’ble Supreme Court in ***State of Haryana vs. Dharamraj***¹¹ had also made similar observations.

12. The upshot of the aforesaid discussion is that the Hon’ble Supreme Court has consistently held that the accused who is absconding and has been declared as a ‘*proclaimed offender*’, is ordinarily not entitled to the relief of anticipatory bail, however, it has also recognized that the personal liberty being supreme cannot be absolutely/ inflexibly curtailed in every case merely on account of such a declaration. No doubt, a declaration of the accused as ‘*proclaimed offender*’ strengthens the case of the prosecution, yet it does not

¹¹ (2023) 17 SCC 510



operate as an absolute and/ or irrebuttable bar. The courts have a duty not to rest their decision solely on the said proclamation but to examine the facts and circumstances of the case, nature of the offence and the background in which such a proclamation was issued, so as to avoid a mechanical denial of anticipatory bail.

13. In the present case, the complainant has already settled and compromised all his claim/ differences with the applicants *vide* a Memorandum of Understanding & Settlement dated 20.08.2025 but also paid the entire agreed settlement amount towards all their claims and interests. The complainant has also filed an affidavit to that effect, as also stating therein that he has no objection if FIR No.377/2024 is quashed. Today, while appearing through video conferencing, after being identified by the Investigating Officer, the complainant has once again reiterated both the aforesaid. It has also been brought to the notice of this Court that the applicants have also joined the investigation.

14. Thus, considering that the *inter se* dispute between the complainant and the applicants has already been settled, there remains virtually nothing which requires custodial investigation. Since the fate of FIR No.377/2024 is already locked, no useful purpose will be served in using the state machinery for the same. Thus, taking the aforesaid exceptional circumstances into account, the mere fact that the applicants have been declared as the *proclaimed offender*, in the peculiar facts of the present case, does not operate as a bar for grant of anticipatory bail to the applicants.

15. Accordingly, the applicants are granted anticipatory bail in FIR



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No.377/2024 registered at Police Station Kalkaji, Delhi, under Sections 420/406/467/468/471/120B IPC. In the event of their arrest, the applicants be released, after furnishing personal bond in the sum of Rs.50,000/- each subject to the satisfaction of the learned Trial Court and are further subject to the following conditions:

- i. Applicants shall not leave National Capital Territory of Delhi without prior permission of this Court and shall ordinarily reside at the address as per the Trial Court records. If they so wish to change their residential address, they shall immediately intimate about the same to the I.O. by way of an affidavit.
- ii. Applicants shall surrender their Passport to the I.O., within *one* week. If they do not possess the same, they shall file an affidavit before the I.O. to that effect within the stipulated period of *one* week as aforesaid.
- iii. Applicants shall appear before the Court as and when the matter is taken up for hearing.
- iv. Applicants shall join investigation as and when called by the I.O. concerned. They shall not obstruct or hamper with the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police Authorities.
- v. Applicants shall provide all their mobile numbers to the I.O. concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the I.O. concerned. The mobile location be kept on at all



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times.

vi. Applicants shall report to the I.O. at P.S. Kalkaji, Delhi, once in the first week of the month, unless leave of such absence is obtained from the learned Trial Court.

vii. Applicants shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case or try to dissuade them from disclosing such facts to Court or to any police official(s).

16. Accordingly, the present bail applications along with the pending applications are allowed and disposed of in the aforesaid terms.

17. Copy of this judgment be sent to the concerned S.H.O., P.S. Kalkaji, Delhi for necessary information and compliance thereof.

18. Needless to say, the observation made, if any, on the merits of the matter are purely for the purposes of adjudicating the present applications and shall not be construed as expressions on the merits of the matter.

SAURABH BANERJEE, J

JANUARY 09, 2026/bh/GA