



2025:DHC:8537



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 22.09.2025
Judgment pronounced on: 24.09.2025

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BAIL APPLN. 1516/2025

NIKHIL JAIN

.....Petitioner

Through: Mr. Sanjay Dewan, Senior Advocate
with Mr. Vivek Kumar Choudhary
and Mr. Rohit Arora, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with SI Prashant Kumar, PS Prashant
Vihar.
Mr. Vijay Kasana, Advocate for
complainant *de facto*.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T

1. The accused/applicant seeks anticipatory bail in case FIR No. 477/2023 of Police Station Prashant Vihar for offences under Sections 420/467/468/471/120B/34 IPC. I have heard learned Senior Counsel for accused/applicant and learned Additional Public Prosecutor for State as well as learned Counsel for complainant *de facto*.



1.1 This is fifth anticipatory bail application of the accused/applicant in the subject FIR. Two anticipatory bail applications were dismissed by the learned Court of Sessions. Thereafter, next two anticipatory bail applications filed by the accused/applicant before this court were dismissed vide orders dated 14.02.2024 and 02.05.2024. The Special Leave Petitions bearing no. SLP Criminal 7766-7767/2024, assailing dismissal of those two anticipatory bail applications also were dismissed vide order dated 02.09.2024 of the Supreme Court. Till date the accused /applicant has not been arrested.

1.2 Not just that, as discussed hereafter, orders protecting the accused/applicant from arrest were obtained from Magisterial Court as well as the Court of Sessions despite dismissal of the SLPs and upholding of two orders of this court, whereby anticipatory bail applications of the accused/applicant were dismissed.

2. It would be apposite to quote the order dated 02.09.2024, passed by the Hon'ble Supreme Court while dismissing the above mentioned SLPs:

ORDER

The I.A. No.147849/2024 is allowed.

2. Heard Mr. Mohit Chaudhary, learned counsel appearing for the petitioner. Also heard Mr. Vivek Gurnani, learned counsel appearing for the respondent - NCT of Delhi. Mr. Shadan Farasat, learned Senior Counsel appears for the intervenor.

3. Having considered the circumstances in these cases and particularly taking note of the stand taken by the State that the person from whom the petitioner had purchased the property is actually a fictitious person, we are disinclined to grant anticipatory bail for the petitioner. The Special Leave Petitions are accordingly dismissed.

4. However, as the petitioner had deposited certain sum pursuant to this Court's order dated 28.05.2024, the amount be returned back to



the petitioner by the Registry, along with accrued interest.
5. Pending application(s), if any, stand closed.

2.1 There being no dispute *qua* the legal position that after dismissal of an application seeking bail or anticipatory bail, fresh application before the same court would lie only in case of change in circumstances, learned Senior Counsel appearing on behalf of accused/applicant confined his address to what according to him is change in circumstances in the present case subsequent to dismissal of the above mentioned SLPs.

2.2 Taking forward the context from the above quoted order of the Hon'ble Supreme Court, learned Senior Counsel for accused/applicant contended that subsequent to dismissal of SLPs, the investigation revealed that the subject property was purchased by the accused/applicant from one Suraj @ Manjeet Singh and not from any fictitious person. Further, it was contended that since the co-accused Pradeep paid almost entire cheated amount to the complainant *de facto* under settlement, this is a fit case to grant anticipatory bail to the accused/applicant. Learned Senior Counsel for accused/applicant laid emphasis on his submission that it is the accused/applicant who has been cheated in the present case.

2.3 On the other hand, learned prosecutor and learned counsel for complainant *de facto* argued that there is no change in circumstances subsequent to dismissal of the SLPs, so the present application is not even maintainable. It was also argued that settlement, if any, between the complainant *de facto* and co-accused Pradeep cannot be a ground to grant or



deny anticipatory bail to the accused/applicant in view of the settled legal position.

3. In order to analyze the rival arguments, it would be apposite to take a brief look at the factual matrix set up through the subject FIR and the investigation, which is as follows.

3.1 The complainant *de facto* Tilak Raj Jain was well acquainted with accused Sushil Singla, a chartered accountant by profession and the present accused/applicant Nikhil Jain for past 10-15 years. Sushil Singla and Nikhil Jain also closely knew each other. In the month of May/June 2021 Sushil Singla offered Tilak Raj Jain to purchase property bearing no.21, Block E, Prashant Vihar, Delhi (*hereinafter referred to as "the subject property"*) from Nikhil Jain. According to copies of the title documents chain furnished to Tilak Raj Jain, a Lease Deed dated 04.12.1990 pertaining to the subject property was executed by DDA in favour of Devender Kumar, which followed a Perpetual Lease Deed dated 26.03.1991. Thereafter, pertaining to the subject property, DDA executed Conveyance Deed dated 27.08.2021 in favour of co-accused Manjeet Singh, who sold the subject property by way of Sale Deed dated 14.10.2021 in the name of accused/applicant Nikhil Jain. In the said Sale Deed dated 14.10.2021, co-accused Kuldeep and Saajan Mehra, who are close friends of accused Sushil Singla and the accused/applicant Nikhil Jain, signed as witnesses. Immediately thereafter on 28.10.2021, the accused/applicant sold the subject property to the complainant *de facto* Tilak Raj Jain, towards sale consideration whereof, the



latter along with his partner Jitender Arora paid Rs.1,32,00,000/- to the accused/applicant Nikhil Jain by way of cheques and RTGS. Later, in the month of September, 2023 when Tilak Raj Jain contacted the property dealers with the intention to sell away the subject property, it was revealed that the Conveyance Deed purportedly executed in favour of accused Manjeet Singh was forged and fabricated document, as no such record was available with the DDA. Having realized cheated at the hands of Sushil Singla and Nikhil Jain, the complainant *de facto* lodged a police complaint which was registered as the subject FIR.

3.2 During enquiry on the complaint, DDA disclosed that the subject property had not been allotted to anyone, as the same is a vacant plot. It was categorically stated by DDA officials that the Perpetual Lease Deed dated 26.03.1991 and the Conveyance Deed dated 27.08.2021 had never been executed in favour of anyone.

3.3 Thence, the overall case of prosecution is that the subject property is a vacant plot in possession of DDA, not transferred to anyone and the accused persons had been forging the documents to fraudulently sell away the subject property, the ultimate purchaser being the complainant *de facto*.

3.4 During investigation, accused Manjeet Singh was searched for but no such person could be traced out, so the prosecution concluded that there is no person by the name Manjeet Singh and that the Conveyance Deed executed in the name of Manjeet Singh, followed by Sale Deed in the name



of the accused/applicant Nikhil Jain were executed by some fictitious person.

3.5 As mentioned above, according to learned Senior Counsel for accused/applicant, since subsequently it was found during investigation that one Suraj had impersonated himself as Manjeet Singh and signed the documents, it is a change in circumstances, so despite dismissal of the SLPs, the accused/applicant can rightfully sustain the present fresh application for anticipatory bail.

4. In view of the above factual matrix, as unfolded during investigation, can it be said that there is change in circumstances. In my considered view, answer to this question has to be in the negative. Manjeet Singh continues to be a fictitious person. What Suraj did as per prosecution is impersonation as Manjeet Singh. It is nobody's case that subsequent to dismissal of SLPs, the investigator has found the person named Manjeet Singh. Manjeet Singh remains a name in fiction. On this aspect, certainly there is no change in circumstances.

5. Another factor, which according to the accused/applicant is change in circumstances is that the co-accused Pradeep Chhikara, a property dealer admitted in police custody, having forged the documents in connivance with co-accused persons; that Pradeep Chhikara got Suraj arrested, and also paid back a substantial amount out of the cheated money to the complainant *de facto*. This also, to my mind cannot be taken as a change in circumstances.



For, in a plethora of judicial pronouncements, the Supreme Court as well as various High Courts including this court have categorically held that the bail courts not being a money recovery forum, return of money or promise thereof cannot be a relevant consideration while deciding a bail application. Whatever amount is paid by the person accused of cheating to the person cheated is at the most towards discharge of civil liability of the former; and such payment does not absolve the accused of his criminal liability.

6. Lastly comes the contention of learned Senior Counsel for accused/applicant that it is the accused/applicant who was cheated through the forged documents of transfer of the subject property. Suffice it to note that conduct of the accused/applicant, having purchased the subject property on 16.10.2021 and having sold away the same to the complainant *de facto* immediately thereafter on 29.10.2021 *prima facie* reflects his complicity. Even otherwise, this argument always existed even prior to the dismissal of anticipatory bail applications by this court followed by dismissal of SLPs by the Supreme Court.

7. In nutshell, I am unable to find any change in circumstances after dismissal of SLPs, which change would entitle the accused/applicant to move fresh application for anticipatory bail.

8. But this decision cannot end with mere dismissal of this application for anticipatory bail. There are issues raising serious concern about judicial indiscipline and impropriety.



8.1 As mentioned above, despite dismissal of repeated applications of the accused/applicant for grant of anticipatory bail, followed by dismissal of even SLPs, the IO opted not to arrest the accused/applicant, which looks somewhat unusual in the backdrop of arrest status of the remaining accused persons of this case FIR. On this aspect, learned prosecutor contended that the IO had obtained non-bailable warrants against the accused/applicant, but it is the Magisterial Court and the Court of Sessions, who granted interim protection to the accused/applicant even subsequent to dismissal of SLPs. However, learned prosecutor also submitted that even after that protection was withdrawn, till date the accused/applicant has not been arrested. Of course, to arrest an accused has to be the decision of the Investigating Officer. Nothing stated herein be read as a direction of this court to the IO to arrest or not to arrest the accused/applicant.

8.2 Then comes the issue of more serious concern. Even after dismissal of as many as four anticipatory bail applications, including two before this court, followed by dismissal of the SLPs vide order dated 02.09.2024, the learned Additional Sessions Judge-04, North District, Rohini Courts, Delhi not just entertained another application of the accused/applicant for anticipatory bail on 12.03.2025, but also granted interim protection to the accused/applicant, which led to filing of Crl.M.C. No.2123/2025 by the complainant *de facto*. In the said Crl.M.C. 2123/2025, detailed order dated 28.03.2025 was passed by this court, and after receiving copy thereof, the learned Additional Sessions Judge vacated the interim protection.



8.3 On 23.04.2025, the IO informed this court that the accused/applicant joined investigation only during the period when he was under interim protection granted by the learned Additional Sessions Judge, but after withdrawal of protection, the accused/applicant absconded and non-bailable warrants against him were alive. On the next date (26.05.2025), it was informed before this court that the said non-bailable warrants, which had been issued on 25.11.2024 by the Judicial Magistrate First Class-04 (North), Rohini Courts, Delhi, were stayed vide order dated 15.01.2025 by the same Magistrate, despite the fact that by then the SLPs had already been dismissed by the Supreme Court.

8.4 On 26.05.2025, learned prosecutor before this court submitted that dismissal of anticipatory bail applications till the Supreme Court had been duly disclosed in the status report filed by the IO before the learned Magistrate. On the same day, learned Senior Counsel for accused/applicant also stated on instructions that even counsel for accused/applicant appearing before the Magistrate had duly apprised the Magistrate about all orders passed by this court, followed by the orders passed by the Supreme Court.

8.5 That being so, vide order dated 26.05.2025 of this court, the learned Magistrate as well as the learned Additional Sessions Judge were called upon to submit detailed reports in sealed cover explaining the circumstances in which the orders passed by this court and the Supreme Court were ignored.



9. In compliance of order dated 26.05.2025, learned Magistrate as well as learned Additional Sessions Judge sent their respective reports in sealed covers. Since in his report dated 08.07.2025, learned Additional Sessions Judge did not specifically deal with a vital part of order dated 26.05.2025, in order to ensure fair opportunity, he was again called upon vide order dated 25.08.2025 to submit a fresh report to explain the circumstances in which despite dismissal of the anticipatory bail application he had granted the accused/applicant interim protection from arrest. In compliance, learned Additional Sessions Judge sent Report dated 30.08.2025.

10. In his report dated 13.06.2025, the learned Magistrate explained as follows. On behalf of the accused/applicant, an application was filed for cancellation of non-bailable warrants which had been issued vide order dated 25.11.2024 and the said application was taken up on 15.01.2025. During arguments on the said application, none of the stakeholders namely the IO, the prosecutor and the defence counsel, pointed out that anticipatory bail applications of the accused/applicant had already been dismissed by this court and the Supreme Court. Further, the application seeking cancellation of non-bailable warrants was completely silent about dismissal of anticipatory bail application by this court and by the Supreme Court. In the said application, on behalf of accused/applicant it was mentioned that the said SLP had been “disposed of” (*and not “dismissed”*) by the Supreme Court. Thereafter, the complainant *de facto* filed application seeking vacation of stay on non-bailable warrants, but that application was dismissed



on 28.02.2025 on the ground that complainant *de facto* had no *locus standi* to file such application. Even during arguments on the said application of complainant *de facto*, neither the learned APP for State nor the IO supported the application and they did not disclose about dismissal of the anticipatory bail application of the accused/applicant till Supreme Court.

10.1 Similarly, the learned Additional Sessions Judge also stated in his report dated 30.08.2025 that neither in the anticipatory bail application nor during arguments, dismissal of earlier anticipatory bail applications by this court, followed by dismissal of SLPs by the Supreme Court was disclosed.

11. During arguments, learned Senior Counsel for accused/applicant as well as learned APP and the IO emphasised that the defence counsel and the APP assisted by the IO before trial court had duly disclosed before the learned Magistrate about dismissal of the anticipatory bail applications till the Supreme Court.

12. A perusal of the application filed on behalf of the accused/applicant for cancellation of non-bailable warrants (*copy of the application annexed with report of the learned Magistrate*) would show that there is no mention at all in the said application that two anticipatory bail applications were dismissed by this court and the SLPs arising out of the same were dismissed by the Supreme Court. Paragraphs 9 to 12 of the said application for cancellation of non-bailable warrants were cleverly drafted, stating that initially in the SLPs, an interim protection was granted by the Supreme



Court but subsequently the SLPs were “disposed of”. The honesty of drafting expected that the expression used should have been the exact expression as used in the Order dated 02.09.2024 of the Supreme Court that the SLPs stood “dismissed”. Such half truth presented on behalf of the accused/applicant in his application before the Magistrate was clearly aimed at misleading the Magistrate, in which the accused/applicant succeeded. This successful attempt of the accused/applicant to mislead the court in itself should be a ground to deny him the relief of anticipatory bail.

12.1 Then comes the role of the IO/SI Prashant. Copy of order dated 15.01.2025 of the learned Magistrate shows that while addressing on the application for cancellation of non bailable warrants, the IO made limited submissions that the accused/applicant had joined investigation in response to Notice under Section 41A, CrPC on 29.05.2024, but thereafter, no such notice was issued; in the said order dated 15.01.2025, the learned Magistrate also expressed inability to understand as to why the IO did not issue any notice after 29.05.2024 and stayed the warrants. The IO also clearly concealed from the learned Magistrate about the dismissals of anticipatory bail applications till Supreme Court.

12.2 Thence, neither the defence side nor the prosecution side informed the learned Magistrate at the stage of cancellation of non bailable warrants that the anticipatory bail applications of the accused/applicant stood dismissed till the Supreme Court.



12.3 But at the same time, even the learned Magistrate was apparently not careful to apply mind and probe as to what was the nature of “disposal” of the SLPs, in the sense as to whether the same were “dismissed” or “disposed of with some directions”. The learned Magistrate did not care to even flip to just the previous order on his record. As mentioned above, the learned Magistrate stayed the non-bailable warrants vide order dated 15.01.2025, while in order dated 25.11.2024, the same learned Magistrate clearly recorded that the anticipatory bail application had also been dismissed by the Supreme Court in SLP (*even serial number of SLP was mentioned in the order itself*).

12.4 Further, the complainant *de facto* filed an application before the learned Magistrate, clearly disclosing that anticipatory bail application of the accused/applicant had been dismissed by this court. In his order dated 28.02.2025, the learned Magistrate clearly observed this fact. But that application was dismissed by the learned Magistrate going by the assurance of the IO that fresh notice was being issued to the accused/applicant and on the ground that complainant *de facto* has no *locus standi* to move such application.

12.5 Clearly, the defence counsel, the investigating officer and the prosecutor concealed from the learned Magistrate about dismissal of the anticipatory bail applications of the accused/applicant till the Supreme Court. But about dismissal of those applications, the learned Magistrate had clear knowledge through his own order dated 25.11.2024 and specific



submissions of learned counsel for complainant *de facto*. So, it is wrong on the part of the learned Magistrate to say that dismissal of anticipatory bail applications was not disclosed to him.

13. Coming to the explanation advanced by the learned Additional Sessions Judge, the only explanation rendered by him is that the factum of dismissal of the anticipatory bail applications till the Supreme Court was concealed by the accused/applicant in the anticipatory bail application filed in the Court of Sessions and the arguments advanced before him, so he entertained the anticipatory bail application of the accused/applicant and granted interim protection.

13.1 Along with index dated 08.08.2025, learned counsel for the accused/applicant filed a report dated 07.08.2025 and copies of certain documents, including copy of the fourth anticipatory bail application which was filed before the Court of Sessions, leading to the interim protection order dated 12.03.2025 of protection from arrest granted to the accused/applicant. The accused/applicant clearly concealed in, not just the covering proforma, but even in the entire body of the anticipatory bail application filed before the Court of Sessions that earlier two anticipatory bail applications of the accused/applicant had been dismissed by this court and the SLPs against those also stood dismissed. As stated in the report dated 30.08.2025, even the order whereby the fourth anticipatory bail application was entertained and interim protection was granted to the accused/applicant shows no such disclosure by the defence counsel before



the learned Additional Sessions Judge.

13.2 But one has to delve deeper to ascertain if the learned Additional Sessions Judge was aware of the fate of the earlier anticipatory bail applications. Detailed status report filed before this court by prosecution vide index dated 13.08.2025 accompanies copies of the relevant ordersheets and other documents, including order dated 12.03.2025 of the learned Additional Sessions Judge in which it was clearly recorded that it was fourth application for grant of anticipatory bail moved on behalf of the accused/applicant and reply to the bail application was filed by the IO. But without ascertaining the status of earlier applications and change, if any, in the circumstances, the learned Additional Sessions Judge going by the submission of learned defence counsel that the accused/applicant was willing to join investigation, directed that till next date no coercive action be taken against the accused/applicant. Copy of the said status report dated 12.03.2025 also has been filed by prosecution and in paragraph 11 thereof, the IO had specifically disclosed that despite dismissal of his anticipatory bail application in the Supreme Court, the accused/applicant was hiding himself.

13.3 It is only after receipt of copy of order dated 28.03.2025 of this court, passed in Crl.MC 2123/2025 that the learned Additional Sessions Judge vacated the interim protection and listed the matter for consideration of maintainability of the anticipatory bail application. So, it is wrong on the part of the learned Additional Sessions Judge also to say that dismissal of



anticipatory bail applications was not disclosed to him.

14. Thence, the irresistible conclusions are:

- (a) that there is no change in circumstances, warranting the present application for grant of anticipatory bail to the accused/applicant after denial of anticipatory bail twice by this court was upheld by the Supreme Court and the accused/applicant clearly concealed the dismissal of those previous applications till the Supreme Court, so this application deserves to be dismissed;
- (b) that the prosecution and investigation side concealed from the learned Magistrate about dismissal of those earlier applications till the Supreme Court, so role of the IO/SI Prashant Kumar of PS Prashant Vihar needs to be probed by the concerned authorities;
- (c) that notwithstanding the aforesaid, as discussed above, it cannot be believed that the learned Magistrate or the learned Additional Sessions Judge were unaware of the dismissal of the earlier anticipatory bail applications of the accused/applicant till the Supreme Court; and
- (d) that it appears to be a case of judicial indiscipline that the Judicial Magistrate First Class-04 (North), Rohini Courts, Delhi and the Additional Sessions Judge-04 (North), Rohini Courts, Delhi despite being aware that two anticipatory bail applications of the accused/applicant had already been dismissed by this court, followed by dismissal of the SLPs, stayed the arrest of the accused/applicant.



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15. Therefore, this anticipatory bail application is dismissed. Copies of this order be sent to the worthy Registrar General, Delhi High Court for being placed before the Inspecting Committees of the said two Judicial Officers and the worthy Commissioner of Police for information and necessary action.

**GIRISH KATHPALIA
(JUDGE)**

SEPTEMBER 24, 2025/ry