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

% *Judgment reserved on: 27.10.2026*
Judgment pronounced on: 28.10.2026

\# **CNR No. DLHC010383532026**

\+ **BAIL APPLN. 3394/2026, CRL.M.A. 25327/2026 & 25330/2026**

VIKAS YADAV .....Petitioner

Through: Mr. Shri Singh and Mr. Jatan Singh, Senior Advocates with Ms. Surabhi Vaya, Mr. Gursimran Narula, Mr. Nitin Kumar Sharma and Mr. Lakshay Chauhan, Advocates.

versus

STATE OF NCT OF DELHI AND ANR. .....Respondents

Through: Mr. Amit Ahlawat, APP for State with SI Kevendra Singh, PS Laxmi Nagar.
Mr. Abhay Kumar, Mr. Pankaj Jaiswal, Mr. Shagun Ruhil, Mr. Karan Chopra and Mr. Rahul Kanojia, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T

"It is apposite to mention that granting the relief of anticipatory bail to an absconding accused person sets a bad precedent and sends a message that the law abiding co-accused persons who stood trial, were wrong to diligently attend the process of trial and further, incentivises people to evade the process of law with impunity."
***Balmukund Singh Gautam vs State of Madhya Pradesh and Anr**., (2026) 6 SCC 216*

1. The accused/applicant, a Proclaimed Offender seeks anticipatory bail in case FIR No. 04/2026 of Police Station Laxmi Nagar for offence under Section 115(2)/126(2)/329(4)/333/74/351(3)/79/3(5) BNS. I heard both learned senior counsel for accused/applicant and learned APP for State. I also heard learned counsel for complainant *de facto* and injured persons.

2. Broadly speaking, allegations against the accused/applicant, who is a practicing advocate, are as follows.

2.1 The father of the accused/applicant is caretaker of a gymnasium being run by the complainant *de facto* in the basement of her house.

2.2 On 02.01.2026, six PCR calls were made by the complainant *de facto* (Smt. Rita Garg), her husband (Shri Rajesh Garg) and their son (Vasu Garg) regarding a quarrel at their premises. The said calls were assigned to SI Shah Faisal, who reached the spot and found Vasu Garg lying completely naked on the road. The IO found Vasu Garg so traumatized and shaken that he could not even speak, but he asked the IO to save his father Rajesh Garg, pointing towards the gate of their house. On directions of the IO, the support constable went to the house of the complainant *de facto* and brought Shri Rajesh Garg out of the gym. Shri Rajesh Garg also was found injured and unable to speak. In the meanwhile, the complainant *de facto* Smt. Rita Garg also came out of the house. The injured persons were sent for medical examination and on statement of Smt. Rita Garg, FIR was registered against accused persons including the present accused/applicant on the allegations

that all of them had brutally assaulted and molested Smt. Rita Garg and her family members.

2.3 In the course of investigation, it came out that since the year 2012 Smt. Rita Garg has been residing in the subject property, which consists of ground floor, and a basement. From basement of the said property, a gym was being run by Smt. Rita Garg and was being taken care of by the co-accused Satish Yadav, father of the present accused/applicant. The co-accused Satish Yadav refused to vacate the basement gym and even occupied the parking space outside residence of the complainant *de facto* and demanded money to vacate the same.

2.4 On 02.01.2026, due to blockage of kitchen pipeline and water reverse flow causing foul smell, the complainant *de facto* over phone requested the accused persons to open the basement for repair of the pipeline, but they refused to do so. When the complainant *de facto* and her family members tried to enter the basement, co-accused Shubham assaulted Rajesh Garg and called the co-accused Satish Yadav and the present accused/applicant to the spot. The present accused/applicant and the co-accused Satish Yadav on reaching the spot tried to hit Rajesh Garg with their car, but he saved himself. Thereafter, the accused/applicant and co-accused persons started beating Rajesh Garg with kicks. When Smt. Rita Garg tried to intervene, the accused persons dragged her onto the public road, assaulted, abused and molested her. The present accused/applicant and co-accused Satish Yadav dragged Rajesh Garg inside the basement, where they again assaulted him

with fists, kicks and even iron rod of the gym, thereby causing injuries on his head, face, teeth, hands and legs. Thereafter, they were joined in the basement by co-accused Madhur and all of them after assaulting Rajesh Garg, forcibly removed all his clothes inside the gym. When Vasu Garg tried to intervene, the present accused/applicant and the co-accused Satish Yadav forcibly dragged him onto the road and after assaulting him with fists and kicks, completely disrobed him, thereby humiliating him in public. When Vasu Garg was lying completely naked on the road, the co-accused Madhur hit him with shoe on face with intention to disfigure him.

2.5 The entire incident was captured in CCTV cameras that were installed outside the premises and inside the gym.

3. At the outset, learned APP submitted that since the accused/applicant has been declared Proclaimed Offender, the present anticipatory bail application is not sustainable. In response, learned senior counsel for accused/applicant argued that there is no blanket proposition that a Proclaimed Offender cannot be granted anticipatory bail; and that according to the settled legal position, in exceptional cases, anticipatory bail can be granted even to a Proclaimed Offender. It was also contended by learned senior counsel for accused/applicant that since the present anticipatory bail application is pending, it was improper on the part of the learned magistrate to declare the accused/applicant Proclaimed Offender.

4. Learned senior counsel for accused/applicant, taking me through

record contended that the accused/applicant is a practicing advocate and has no concern with the gym being run by his father. It was also argued that during pendency of the proceedings under Section 84 BNSS, the accused/applicant had joined investigation, so there is no risk of his fleeing. It was argued that there is no CCTV footage showing the present accused/applicant disrobing Vasu Garg as the accused/applicant reached the spot subsequent to the alleged disrobing. It was also argued by learned senior counsel that initially there was no allegation as regards any CCTV DVR found missing from inside the gym, and that this allegation has surfaced subsequently only to serve as a pretext for custodial interrogation. It was also argued that Smt. Rita Garg in the course of her subsequent statement had also alleged having been raped, but that allegation is not against the present accused/applicant. Learned senior counsel for accused/applicant also referred to the medical record and pointed out that according to MLC, the injury found on Rajesh Garg was on left side of face, but in the records of the private doctor the said injury was found on right side of the face, which according to learned senior counsel shows fabrication of record.

5. Learned APP for State explained the discrepancy of injuries found on face of Rajesh Garg, pointing out that in MLC the locus of those injuries was apparently recorded on left side of the face wrongly, but that cannot be a ground to extend benefit of anticipatory bail. It was also explained that even the medical opinion obtained from government doctor immediately after the incident clearly recorded the injury to be on right side of face.

Learned APP for State also argued that according to the settled legal position, anticipatory bail can be granted to a Proclaimed Offender only in exceptional circumstances, which is not in the present case, as despite being a practicing advocate, the accused/applicant did join investigation even after repeated notices followed by non-bailable warrants. It was pointed out that the accused/applicant has not even challenged the order dated 12.10.2026, by which he was declared Proclaimed Offender. Learned APP for State referred to the statements of the complainant *de facto* and her family members describing the use of gym rod in the assault. It was submitted that out of six assailants, four have been arrested and are in judicial custody; and that out of the two accused persons yet to be arrested, namely the present accused/applicant and Shubham, the latter has not even sought anticipatory bail. On instructions of the IO, learned APP submitted that custodial interrogation of the accused/applicant is required in order to recover DVR of the basement CCTV.

6. Learned counsel for complainant *de facto* adopted the arguments advanced by learned APP for State and took me through record in support of his contention that the present accused/applicant has been flouting all notices and even coercive processes with impunity because he is a practicing advocate. In this regard, learned counsel for complainant *de facto* also took me through records to point out the efforts done to locate the present accused/applicant. Learned counsel for complainant *de facto* also pointed out that the accused/applicant even had audacity to record audio visual the proceedings of his own interrogation inside the police station, which led to

suspension of the IO/SI Shah Faisal.

7. In rebuttal arguments, learned senior counsel for accused/applicant contended that the judicial precedent of ***Balmukund Singh Gautam vs. State of Madhya Pradesh and Anr.,*** (2026) 6 SCC 216, brought to his notice during arguments is not applicable because in the said case, anticipatory bail application was filed two years after declaring the accused Proclaimed Offender, which is not in the present case. Learned senior counsel referred to the judgment of the Supreme Court in the case of ***Asha Dubey vs State of Madhya Pradesh***, (2024) SCC OnLine SC 5633, in support of his contention that anticipatory bail can be granted to a Proclaimed Offender also.

8. To begin with, contention of the learned senior counsel for accused/applicant is correct that there is no absolute bar on grant of anticipatory bail to a Proclaimed Offender. What is to be seen is as to whether the Proclaimed Offender seeking anticipatory bail has been able to set up exceptional circumstances for grant of such relief. In the case of ***Balmukund*** (supra), the question framed by the Supreme Court was as to "*whether the High Court, by the Impugned Order, is justified in granting anticipatory bail under Section 438 of the CrPC to the accused?*" After elaborate discussion traversing across multiple judicial precedents, the Supreme Court held thus:

> *"44. It is thus a trite position that an absconder is not entitled to the relief of anticipatory bail as a general rule, however, in certain exceptional cases, where on a perusal of the FIR, case diary and*

> *other relevant materials on record,* ***the Court is of the prima facie opinion that no case is made out against the absconding accused****, then the power of granting anticipatory bail may be exercised in favour of the absconding accused. However, no such exceptional case is made out in favour of the accused as per the documents on record."*
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> *(emphasis supplied)*

What is to be examined in the present case is as to whether this court can arrive at *prima facie* opinion that no case is made out against the present accused/applicant, which can entitle him of anticipatory bail, despite being a Proclaimed Offender.

9. Going by the above narrated factual matrix alleged in the prosecution case through statements of the complainant *de facto* and her family members, all of whom got injured in the alleged incident, coupled with their medical record, the following circumstances are of vital significance. The injured persons were assaulted by not an ordinary rod; according to the prosecution case it was a gym rod, which is quite heavy and dangerous when used as a weapon. As per medical records, the injured Shri Rajesh Garg suffered fracture of right mandible on account of assault with gym rod. In the present case, much more serious than the physical injuries suffered by the injured persons is the psychological injury caused by the accused persons by disrobing two of the injured persons, one of whom was disrobed in full public glare. The entire incident of assault on Vasu even when he was lying completely naked on road was captured in CCTV, the footage whereof was played in this court during one of the hearings. The manner of assault, as depicted from the same was shocking and barbaric, to say the

least. While considering the gravity of offence for the purposes of grant or denial of bail, I am unable to treat the alleged assault merely as hitting the injured persons with gym rod. The psychological trauma of being completely disrobed on a public road would take many years for Vasu to heal.

9.1 During arguments, learned senior counsel for accused/applicant played heavy emphasis that according to MLC of injured Rakesh Garg, the injury was found on left side of the face but according to private doctor opinion, the said injury was found on right side of the face. On this aspect, the opinion taken by the IO from government doctor was immediately after the alleged incident and according to the same, the injury was found on right side of the face. I find substance in the submission of learned APP that the locus of injury recorded in the MLC was apparently under a miscommunication created on account of the injured positioned in front of the doctor. That can be ascertained during full dress trial only and cannot be a ground to grant anticipatory bail, that too to a Proclaimed Offender.

10. During arguments, learned senior counsel for the accused/applicant also projected that the accused/applicant being a practicing advocate in itself is a circumstance favouring grant of anticipatory bail. Of course, all advocates, being officers of the court, deserve respect. But that tenet cannot be extended to an advocate, who indulges in such brazen lawlessness, that too publicly and with such impunity. The accused/applicant not only participated in the assault of the injured persons, but also had the audacity to

tape record in audio visual form his own interrogation in the police station, that too when he was already under non-bailable warrants, though proceedings under Section 84 BNSS had been stayed. Resultantly, a departmental enquiry has been initiated against the earlier IO/SI Shah Faisal and he has been suspended, because despite the non-bailable warrants being alive, he did not arrest the accused/applicant after interrogation. That amply establishes his mindset of exhibiting might of being an advocate.

11. Further, as reflected from record, in an effort to trace out the accused/applicant, raids and searches were conducted by the IO at different locations on 03.01.2026, 05.01.2026, 09.01.2026, 10.01.2026, 12.01.2026, 17.01.2026, 20.01.2026, 21.01.2026, 27.01.2026 and 08.02.2026. Efforts were also made to trace out his location on the basis of Call Details Records from places including outside Delhi. Even the non-bailable warrants could not be executed against the accused/applicant, so proceedings commenced under Section 84 BNSS against him. Those proceedings were stayed by the concerned magistrate, but despite there being no stay on operation of non-bailable warrants, the earlier IO/SI Shah Faisal allowed the accused/applicant to go back after an audio visual recorded charade of interrogation, for which the IO is facing consequences. But it also shows scant regard for law in the mind of the accused/applicant under the mistaken impression that being an advocate, he cannot be arrested.

12. Therefore, it is neither a matter of exceptional circumstances where a practicing advocate be extended indulgence of anticipatory bail despite his

being a Proclaimed Offender nor it is a case of there being *prima facie* no offence made out against him.

13. I am unable to agree with the contention of learned senior counsel for accused/applicant that on account of pendency of this anticipatory bail application, it was improper on the part of the learned magistrate to declare the accused/applicant Proclaimed Offender. Admittedly, there was no stay on the proceedings pending before the learned magistrate to declare the accused/applicant Proclaimed Offender. Rather, the accused/applicant had not even sought in the present proceedings any directions to the concerned magistrate not to proceed with declaring him a Proclaimed Offender. There being no explicit order staying the proceedings before the learned magistrate, the order dated 12.10.2026 declaring the accused/applicant a Proclaimed Offender was perfectly lawful.

14. Then comes the issue of requirement of custodial interrogation, as submitted by the IO. As mentioned above, there are specific allegations of the injured persons that the injured Rajesh Garg was dragged inside the gym where he was beaten up with the gym rod and was completely disrobed in full view of the CCTV installed inside the gym. But DVR of that gym CCTV has been removed by the accused persons. In order to recover that DVR of the gym CCTV, the requirement of custodial interrogation is genuine, in my view. That also is a factor for which anticipatory bail cannot be granted to the accused/applicant.

15. To conclude, the accused/applicant is a Proclaimed Offender and it is not a case where *prima facie* no offence is made out against him, which is the test laid down by the Supreme Court in ***Balmukund*** (supra), and his being a practicing advocate does not make it to be an exceptional case on account of his conduct described above at length. Grant of anticipatory bail in such circumstances would convey wrong signals to the society at large that being a practicing advocate can be a license to indulge in such brazen lawlessness and would erode the public confidence in the rule of law. Therefore, this anticipatory bail application and the accompanying applications are dismissed.

GIRISH KATHPALIA
(JUDGE)

OCTOBER 28, 2026/*ry*