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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 06.10.2026**# **CNR No. DLHC010481992026**+ **BAIL APPLN. 4251/2026, CRL.M.A.s 31369-371/2026**

SUBHASH KUMAR ANUBHAVI

.....Petitioner

Through: Mr. Dushyant Pratap Singh, Mr.
Anurag Kumar and Ms. Samiksha
Gupta, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP for the
State (through VC).
Insp. Sachin Yadav, PS Gulabi Bagh.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present application, under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), has been filed on behalf of the applicant/petitioner seeking anticipatory bail and, in the interim, protection from arrest in e-FIR No. 80001589/2025 dated 05.01.2025, registered at Police Station Gulabi Bagh, Delhi, under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023 ("BNS"). It is stated that Section 317(2) of the BNS has also since been invoked against the petitioner.

2. Issue notice.

3. Mr. Aashneet Singh, learned APP, accepts notice on behalf of the State.

4. Issue notice to the complainant, Dr. B.K. Kanhar, through all permissible modes, including electronically, returnable on the next date of hearing.



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5. The complainant, Dr. B.K. Kanhar, reported the theft of his mobile phone at Shani Bazar, Gulabi Bagh, on 28.12.2024. It is alleged that this was followed by 12 unauthorised banking transactions between 29.12.2024 and 01.01.2025, whereby a total of Rs.2,95,000/- was debited from the SBI account of the complainant. The allegation against the petitioner is that a sum of Rs.1,00,000/- was credited to his Indian Bank account, and that he withdrew the same.

6. The petitioner states that in 2024-25 he ran a food stall at Lalpur Chowk, Ranchi, Jharkhand. His explanation is that one Abhishek Golande, who visited his stall 7-8 times and thereby gained his confidence, told him that he could not withdraw money from his own account owing to the mental health condition of his mother, and requested him to receive some money in his bank account. Thereafter, an amount of Rs.1,00,000/- was credited to the petitioner's account, which he withdrew and handed over to Abhishek Golande, without knowing its unlawful source. According to the additional reply of the Investigating Officer, the petitioner has further stated that he also knows one Shiv Shankar Pathak @ Aditya.

7. It is noticed that the petitioner's anticipatory bail application (Bail Matters No. 1052/2026) was filed before the learned Principal District and Sessions Judge (Central), Tis Hazari Courts. By order dated 26.05.2026, the petitioner was directed to join the investigation, and it was directed that no coercive process would be taken till then. Thereafter, by order dated 02.07.2026, the said application was dismissed, noting that the investigation was going on, the co-accused persons were yet to be arrested and custodial interrogation of the petitioner was required.

8. The Investigating Officer is present in Court and submits that



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the petitioner has joined the investigation pursuant to the order dated 26.05.2026. The petitioner has annexed, as Annexure P-4 to the present petition, the additional reply filed by the Investigating Officer (SI Sharmila Yadav, PS Gulabi Bagh) before the learned Principal District and Sessions Judge (Central), Tis Hazari Courts, in Bail Matters No. 1052/2026, arising from the petitioner's earlier anticipatory bail application. That reply records that, on the direction of the Sessions Court, the petitioner joined the investigation, was interrogated at length and made the requisite disclosures; it does not allege any non-cooperation on his part. In the said reply, the Investigating Officer opposed the petitioner's application on the ground that the petitioner resides in Ranchi, that his custodial interrogation is required to arrest the other accused persons, and that he may tamper with evidence, influence witnesses or jump bail.

9. During the course of hearing, it is assured and undertaken by the petitioner that all the information available with him shall be duly provided to the IO to establish the identity and whereabouts of the co-accused. It is further undertaken that the petitioner shall continue to appear before the IO as and when called upon, shall not tamper with the evidence or influence any witness, and shall not leave the country without the prior permission of this Court.

10. The offences alleged, namely Section 303(2) of the BNS (for a first conviction) and Section 317(2) of the BNS, are each punishable with imprisonment which may extend to three years. The Supreme Court has repeatedly cautioned against routine arrests.¹

¹ In **Arnesh Kumar v. State of Bihar**, (2014) 8 SCC 273, it was observed as under:-
"6. ... We believe that no arrest should be made only because the offence is non-bailable and cognizable



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11. As regards the necessity of custodial interrogation, the Supreme Court in **Ashok Kumar v. State of Union Territory Chandigarh**, (2024) 12 SCC 199, observed as under:-

“10. ...a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation.”

12. Considering the totality of circumstances, including the aforesaid undertaking given by the petitioner, the fact that the petitioner has joined the investigation, the maximum punishment prescribed for the offences alleged, and taking note of the fact that the money trail is traceable through the bank account records, this Court is inclined to grant limited protection to the petitioner at this stage.

13. In the circumstances, it is directed that until the next date of hearing, no coercive steps shall be taken against the petitioner in e-FIR No. 80001589/2025 registered at Police Station Gulabi Bagh, Delhi, subject to the petitioner continuing to join and cooperate in the investigation as and when called upon by the Investigating Officer and also subject to the petitioner adhering to the aforesaid undertaking/s.

14. Let a Status Report be filed by the State before the next date of hearing.

and therefore, lawful for the police officers to do so. The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. Apart from power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. ...”

In **Siddharam Satlingappa Mhetre v. State of Maharashtra**, (2011) 1 SCC 694, the Supreme Court held as under:-

“113. The arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. ...”



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15. Nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

16. List on 27.01.2027.

SACHIN DATTA, J

OCTOBER 6, 2026/at/sd