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

% ***Date of Decision: 27.11.2026***

\# **CNR No. DLHC010545472026**

\+ **BAIL APPLN. 4852/2026, CRL.M.A. 35376/2026**

SMT. POONAM SOLANKI .....Petitioner

Through: Mr. N.K. Aggarwal, Mr. Anshul Sura, Mr. Amanpreet, Ms. Dharna Gupta, Ms. Anmol, Mr. Bhoumik, Advs.

versus

STATE (GOVT. OF NCT OF DELHI) .....Respondent

Through: Ms. Richa Dhawan (APP) for State
Mr. Ankit Yadav, Adv. for Complainant
SI Rajesh P.S. Palam Village

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. By way of the present application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 438 of the Code of Criminal Procedure, 1973), the applicant/petitioner seeks anticipatory bail in FIR No. 279/2026, dated 23.05.2026, registered at P.S. Palam Village, South West District, Delhi, under Sections 420/34 of the Indian Penal Code, 1860.

2. The complainant (Smt. Sheela Meena) alleges that, between 17.12.2022 and 09.04.2023, she paid Rs. 58,00,000/- for two flats bearing no. 113 and 114 in property bearing no. WZ-64, Adarsh Gali, Palam, Dwarka, New Delhi. This property was owned by the

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applicant's/petitioner's husband. The said sum was paid to a builder (Nitin Kumar/co-accused) with whom the husband of the applicant/petitioner executed a collaboration-cum-construction agreement.

3. During the course of hearing, it transpires that at a previous point of time, the aforesaid property was mortgaged to a bank. It is also stated that the property was transferred to the applicant by a gift deed, in which the donor was the applicant's/petitioner's own husband. It also transpires that the applicant/petitioner has already sold fourteen (14) out of sixteen (16) flats in the said building to different purchasers, despite the assurances given to the complainant.

4. *Vide* paragraph 11 of the order dated 06.11.2026, this Court granted interim protection to the applicant/petitioner subject to the applicant/petitioner joining the investigation as and when called upon to do so. The same was also subject to the applicant/petitioner furnishing the requisite title documents to the Investigating Officer (IO).

5. Today, it is informed that the petitioner has not cooperated in the investigation inasmuch as she has neither produced the original collaboration agreement nor the documentation entered into with the IIFL at the time of execution of the mortgage deed. The title to the property, collaboration agreement, and its alleged cancellation lie at the heart of the investigation. The applicant/petitioner has not been forthcoming with the documents relating to them. Further, a false plea has been taken that the applicant is not in possession of any document at all, except for the gift deed executed by the applicant's/petitioner's husband in her favour.

6. A Status Report dated 27.11.2025 has been handed over during the

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course of hearing. The same is taken on record. Paragraph 9 of the aforesaid status report further avers as under:-

> *"9. During investigation, accused Poonam Solanki produced a photocopy of an alleged undertaking purportedly executed by accused Nitin Kumar, whereby the original collaboration-cum-construction agreement was allegedly terminated. However, accused Nitin Kumar categorically denied having executed any such undertaking."*

7. The undertaking referred to in the aforesaid status report is the same undertaking on the basis of which flats were sold by the petitioner/applicant to the third party. However, the original of the same is not being produced by the petitioner/applicant. The non-production of the original undertaking becomes more pertinent in view of the fact that the co-accused (Nitin Kumar/builder) has produced the original Collaboration-cum-Construction Agreement, which prohibited the applicant/petitioner from selling the flats.

8. The learned ASJ(FTC), South-West District, Dwarka Courts, New Delhi, *vide* order dated 04.11.2026 in Bail Matters 2037/2026, dismissed the anticipatory bail application of the present applicant/petitioner, after taking note of the following similar considerations:

> *"4.* ***At the outset, it may be noted that the applicant/accused was given interim protection of one day to cooperate in the investigation and provide the documents sought to the IO. However, as per the submissions of the IO made today, the applicant/accused has not provided the original Termination of Collaboration Agreement*** *and the medical records of deceased Praveen Solanki have not been provided to the IO. During the course of arguments, it is informed that the IO that genuineness of the Undertaking (regarding the termination of collaboration agreement) is being denied by the co-accused Nitin and therefore,* ***the original of this document is required for its forensic examination****.*
>
> *5. The applicant/accused has contended that the original of the said undertaking is not in her possession and is in possession of co-accused Nitin Kumar.* ***At this stage, it is too early to conclude as to in whose possession, the said document must be. As such, it is subject of***

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investigation for which custodial is at a nascent stage and blanket protection at this stage, may hamper investigation."

(emphasis supplied)

9. Considering the aforesaid circumstances, in the opinion of this Court, the Investigating Officer (IO) must have a free hand to investigate all relevant aspects, especially when the applicant/petitioner has time and again failed to cooperate with the investigation. In this regard, it is apposite to refer to the decision of the Supreme Court in ***State v. Anil Sharma*, (1997) 7 SCC 187**, wherein it was observed as under:

> "*6.* ***We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual.*** *The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.*"
>
> (emphasis supplied)

10. The Supreme Court in ***Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565**, *inter alia*, observed as under:

> "*41. Apart from the fact that the very language of the statute compels this construction, there is an important principle involved in the insistence that facts, on the basis of which a direction under Section 438(1) is sought, must be clear and specific, not vague and general.* ***It is only by the observance of that principle that a possible conflict between the right of an individual to his liberty***

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> ***and the right of the police to investigate into crimes reported to them can be avoided. A blanket order of anticipatory bail is bound to cause serious interference with both the right and the duty of the police in the matter of investigation because, regardless of what kind of offence is alleged to have been committed by the applicant and when, an order of bail which comprehends allegedly unlawful activity of any description whatsoever, will prevent the police from arresting the applicant even if he commits, say, a murder in the presence of the public. Such an order can then become a charter of lawlessness and a weapon to stifle prompt investigation into offences which could not possibly be predicated when the order was passed. Therefore, the court which grants anticipatory bail must take care to specify the offence or offences in respect of which alone the order will be effective. The power should not be exercised in a vacuum.***"
>
> (emphasis supplied)

These observations have also been relied upon by the Constitutional Bench of the Supreme Court in ***Sushila Aggarwal v. State (NCT of Delhi),*** **(2020) 5 SCC 1**.

11. Furthermore, since the applicant/petitioner, on not being able to produce the original undertaking and also on not being able to satisfy the Court, at this stage, of its non-possession, this Court is of the opinion that the allegations levelled by the complainant are more than a suspicion. The veracity of the same is the course of the trial, for which the investigation needs to take its full course. The Supreme Court in ***CBI v. Santosh Karnani,*** **2023 SCC OnLine SC 427**, *inter alia*, observed as under:

> "*24. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its*

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> *logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences.* ***Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.****"*
>
> (emphasis supplied)

12. The legal position is also well settled that anticipatory bail is not to be granted in the matter of a course, and is to be granted only if compelling circumstances are made out. In this regard, reference may be made to the judgment of the Supreme Court in ***Jai Prakash Singh v. State of Bihar,* (2012) 4 SCC 379**, wherein the Supreme Court, *inter alia*, observed as under:

> *"13. There is no substantial difference between Sections 438 and 439 CrPC so far as appreciation of the case as to whether or not a bail is to be granted, is concerned.* ***However, neither anticipatory bail nor regular bail can be granted as a matter of rule. The anticipatory bail being an extraordinary privilege should be granted only in exceptional cases.*** *The judicial discretion conferred upon the court has to be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail.*
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> *14. In State of M.P. v. Ram Kishna Balothia this Court considered the nature of the right of anticipatory bail and observed as under : (SCC p. 226, para 7)*
>
> > *"7. …* ***We find it difficult to accept the contention that Section 438 of the Code of Criminal Procedure is an integral part of Article 21.*** *In the first place, there was no provision similar to Section 438 in the old Criminal Procedure Code. … Also anticipatory bail cannot be granted as a matter of right. It is essentially a statutory right conferred long after the coming into force of the Constitution. It cannot be considered as an essential ingredient of Article 21 of the Constitution. And its non-application to a certain special category of offences cannot be considered as violative of Article 21."*

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> *15. While deciding the aforesaid cases, this Court referred to the* ***41st Report of the Indian Law Commission dated 24-9-1969 recommending the introduction of a provision for grant of anticipatory bail wherein it has been observed that "power to grant anticipatory bail should be exercised in very exceptional cases****".*
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> ***
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> *19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor.* ***Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.*** *(See D.K. Ganesh Babu v. P.T. Manokaran, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain and Union of India v. Padam Narain Aggarwal.)*"
>
> (emphasis supplied)

13. In ***Nikita Jagganath Shetty v. State of Maharashtra*****, 2025 SCC OnLine SC 1489**, the Supreme Court observed as under:

> "*8. This Court, in numerous judgments, has held that* ***anticipatory bail is an exceptional remedy*** *and ought not to be granted in a routine manner.* ***There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences*** *…*"
>
> (emphasis supplied)

14. In the circumstances, the present petition is dismissed. The *interim protection* granted by this Court *vide* order dated 06.11.2026 stands vacated.

NOVEMBER 27, 2026/*uk(vk)* **SACHIN DATTA, J**

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