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

% ***Date of Decision: 27th November, 2026***

\# **CNR No. DLHC010463012026**

\+ BAIL APPLN. 4089/2026

SH. AJAY PAL SINGH .....Petitioner

Through: Mr. Anurag Singh, Advocate

versus

THE STATE AND ANR .....Respondents

Through: Mr. Sunil Kumar Gautam, APP for State
Mob: 9871349009
Mr. Aditya Bakshi, Mr. S. P. Gupta and Mr. Rahul Gupta, Advocates for respondent no. 2.
(M): 7042198317
Email: info@centurylawfirm.in
SI Vivek Gautam, PS Badarpur

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. *(Oral):*

1. The present application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), on behalf of the petitioner, i.e., Ajay Pal Singh, S/o Late Munshi Lal, seeking anticipatory bail in connection with the First Information Report ("FIR") being *FIR No. 127/2026* dated 16th April, 2026, registered at Police Station ("PS") Badarpur, New Delhi, under Sections 420/34 of the Bharatiya Nyaya Sanhita, 2023 ("BNS").

2. The petitioner had earlier preferred an application for anticipatory bail

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before the Additional Sessions Judge-04, South East District, Saket Courts, New Delhi, which was dismissed *vide* order dated 23rd September, 2026, passed in *Bail Matters 1879/2026*.

3. A Status Report dated 25th November, 2026, has been filed on behalf of the State, which is taken on record.

4. The case of the prosecution, as culled out from the material on record, is as follows:

4.1. The present FIR came to be registered based on a complaint submitted by the complainant, i.e., respondent no. 2, who alleged that the petitioner was inducted as a tenant in Shop No. 1, situated at *Property No. 4, Main Market, Molarband Extension, Badarpur, New Delhi* ("subject property"), in November, 2016.

4.2. It was further alleged that the petitioner regularly paid rent till January, 2021, but thereafter, stopped paying rent, illegally retained possession of the shop, and subsequently dishonestly claimed ownership over the same by relying upon forged and fabricated property documents.

4.3. During investigation, it was found that the subject property originally belonged to late Hari Prasad Kaushik, who had purchased the same in the year 1984. After his demise, the subject property was mutually divided amongst all his legal heirs, and the shop fell into the share of respondent no. 2, who continued to let out the shop to tenants from time to time.

4.4. The petitioner was inducted as a tenant of the shop in the year 2016.

4.5. When respondent no. 2 demanded payment of rent and vacation of the premises, the petitioner falsely projected himself as the owner and produced a General Power of Attorney ("GPA"), Agreement to Sell ("ATS"), Receipt, Possession Letter and Will, all purportedly executed on 12th May, 2003,

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claiming that the deceased father of respondent no. 2 had sold the shop to him for a consideration of Rs. 2,00,000/- (Rupees Two Lakhs).

4.6. During further investigation, an independent witness joined the investigation and categorically identified the previous tenant, and admitted the rent agreement executed by respondent no. 2, thereby corroborating the prosecution version that the shop continued to remain under tenancy after the year 2003.

4.7. After a notice was issued to the petitioner under Section 35(3) of the BNSS, he joined the investigation. However, he could not provide the original documents of the subject property.

4.8. Further, the records received from the Electricity Department did not identify the petitioner as either the tenant or the owner of the subject property.

5. The submissions made on behalf of the petitioner in favour of anticipatory bail are as under:

5.1. The petitioner has deep roots in society, and there is no chance of his absconding or tampering with the prosecution evidence.

5.2. Respondent No. 2 has already instituted a civil suit, being *CS DJ No. 892/2023*, seeking the eviction of the petitioner from the subject property. The suit is pending before the Additional District Judge, Saket Courts, South East District, New Delhi.

5.3. The petitioner has joined the investigation, in terms of the order dated 01st July, 2026, passed by the Additional Sessions Judge (SC-RC), South East District, Saket Courts, New Delhi, in *Bail Matters 1879/2026*.

5.4. The petitioner has not been supplied with a copy of the present FIR.

5.5. As regards the documents of the subject property, the petitioner has lost them and lodged a lost report in this regard in the year 2024.

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6. Learned Additional Public Prosecutor ("APP") appearing for the State has opposed the grant of anticipatory bail to the petitioner on the following grounds:

6.1. Custodial interrogation of the petitioner is necessary to recover the originals of the forged property documents allegedly executed in 2003, ascertain their source and manner of preparation, identify and interrogate those involved in their preparation, and confront the petitioner with the documentary and oral evidence collected during the investigation.

6.2. The investigation is still at a very crucial stage, and the grant of anticipatory bail at this stage will seriously hamper the investigation and provide an opportunity to the petitioner to destroy or conceal original documents, influence witnesses and tamper with evidence.

6.3. Merely because civil litigation regarding possession of the property is pending between the parties does not absolve the petitioner of criminal liability arising out of preparation and use of forged documents.

7. Learned counsel appearing for the complainant/respondent no.2 is also present before this Court and has opposed the anticipatory bail. Following submissions have been made on behalf of respondent no.2:

7.1 Late father of respondent no.2 bought the subject property, i.e., Plot No. 4, Khasra No. 19, Molarbad Extension, Meethapur, Badarpur, New Delhi on 10th January, 1984 out of his own funds.

7.2 After the demise of his father, respondent no.2 used to collect rent from Shop No. 1 build on the aforesaid property. In the year 2012, respondent no.2 also entered into a tenancy agreement with one Harbans Kumar with regard to Shop No. 1 for running a business under the name of "Jyoti Opticals" on 15th December, 2021.

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Signing Date:28.11.2026
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7.3 Thereafter, in the year 2016, the present petitioner approached the respondent no. 2 for entering into a tenancy relationship with him. Pursuant thereto, respondent no. 2 entered into a landlord-tenant relationship with the petitioner for a period of 11 months against consideration of Rs. 10,000/- per month. The said tenancy was renewed for a period of 11 months several times with an increase in the consideration amount of 10% on each such renewal.

7.3 The present petitioner stopped making any payments in January, 2021. Despite multiple requests, the petitioner did not make any payment. Thereafter, respondent no. 2 filed a suit for vacation of property and recovery of rent arrears against the petitioner.

7.4 In the civil suit filed by respondent no. 2, the petitioner in his written statement very shockingly claimed that he was the lawful owner of the subject property and falsely claimed that the property was transferred to him by the father of respondent no. 2 in the year 2003. The petitioner has relied upon forged and fabricated documents, on account of which complaint has been filed by respondent no. 2, culminating in the registration of the present FIR.

7.5 Upon enquiry by the Police, the petitioner did not produce any original documents in support of his ownership claim. Further, no independent or reliable proof of payment of the alleged sale consideration was produced.

7.6 The alleged witnesses in the forged and fabricated document relied upon by the petitioner are not known to the family, locality or community of respondent no. 2.

7.7 Prior to November, 2016, the shop was in possession of another tenant, which contradicts the petitioner's claim of ownership since the year 2003.

7.8 Electricity connection records also *prima facie* support the complainant's version.

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8. I have heard learned counsels appearing for the parties.

9. At the outset, reference may be made to the case of ***Siddharam Satlingappa Mhetre Versus State of Maharashtra and Others, (2011) 1 SCC 694***, wherein, the Supreme Court has laid down the following factors to be considered when deciding an application for anticipatory bail:

> *"xxx xxx xxx*
>
> ***111.*** *No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail. We are clearly of the view that no attempt should be made to provide rigid and inflexible guidelines in this respect because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail. In consonance with the legislative intention the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case. As aptly observed in the Constitution Bench decision in Sibbia case [(1980) 2 SCC 565 : 1980 SCC (Cri) 465] that the High Court or the Court of Session has to exercise their jurisdiction under Section 438 CrPC by a wise and careful use of their discretion which by their long training and experience they are ideally suited to do. In any event, this is the legislative mandate which we are bound to respect and honour.*
>
> ***112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:***
>
> ***(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;***
>
> ***(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;***
>
> ***(iii) The possibility of the applicant to flee from justice;***
>
> ***(iv) The possibility of the accused's likelihood to repeat similar or other offences;***
>
> ***(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;***
>
> ***(vi) Impact of grant of anticipatory bail particularly in***

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Signing Date:28.11.2026
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cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

113. 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. The court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record.

114. *These are some of the factors which should be taken into consideration while deciding the anticipatory bail applications. These factors are by no means exhaustive but they are only illustrative in nature because it is difficult to clearly visualise all situations and circumstances in which a person may pray for anticipatory bail. If a wise discretion is exercised by the Judge concerned, after consideration of the entire material on record then most of the grievances in favour of grant of or refusal of bail will be taken care of. The legislature*

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Signing Date:28.11.2026
20:07:33

in its wisdom has entrusted the power to exercise this jurisdiction only to the Judges of the superior courts. In consonance with the legislative intention we should accept the fact that the discretion would be properly exercised. In any event, the option of approaching the superior court against the Court of Session or the High Court is always available.

xxx xxx xxx"

(Emphasis Supplied)

10. On the question of whether the asserted need for custodial interrogation is sufficient to deny a person anticipatory bail, the Supreme Court, in the case of ***Ashok Kumar Versus State of Union Territory Chandigarh, (2024) 12 SCC 199***, has held as under:

"xxx xxx xxx

***9. One good ground which has persuaded us to exercise our discretion in favour of the appellant is that the appellant has already joined the investigation. He has cooperated in the investigation so far**.*

10.** There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. **However, 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.

xxx xxx xxx"

(Emphasis Supplied)

11. Recently, in similar circumstances as the present case, a Single Bench of this Court, by order dated 20th July 2026, passed in ***BAIL APPLN. 1131/2026***, titled as ***Jagdish Sharma Versus State of NCT of Delhi***, granted anticipatory bail in a case involving, *inter alia*, an offence under Section 420

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Signing Date:28.11.2026
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of the IPC. The Court found the apprehension of the prosecution that the grant of bail would impede the investigation to be unfounded, as the applicants had joined the investigation whenever called and the prosecution had failed to identify any specific investigative purpose that required their custodial interrogation. The relevant paragraphs of the said order are reproduced below:

> *"xxx xxx xxx*
>
> *17. Applying the aforesaid principles to the facts of the present case, this Court finds that both the applicants have remained protected by the interim orders passed by this Court and have joined the investigation as and when called upon by the IO. It is also not disputed that they have continued to cooperate with the investigation.* ***Further, no material has been placed on record to indicate that either applicant has attempted to evade the investigation, tamper with evidence or influence any witness. Therefore, the apprehension of the prosecution that the grant of anticipatory bail would impede the investigation is unfounded.***
>
> *18. This Court further finds that the* ***allegations against the applicants primarily arise out of financial transactions, banking records and other documentary material, most of which has already been collected by the Investigating Agency. Apart from a general assertion that custodial interrogation is necessary, the prosecution has failed to demonstrate any specific investigative purpose which cannot be achieved by directing the applicants to continue joining the investigation.*** *The facts of the present case, therefore, squarely satisfy the parameters laid down by the Supreme Court in* ***P. Chidambaram(supra)****, inasmuch as the evidence is predominantly documentary in nature, there is no material to indicate any likelihood of tampering with the evidence or abscondence, and the applicants have continued to cooperate with the investigation. Accordingly, this Court is of the considered opinion that custodial interrogation of the applicants is not warranted.*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

12. Similarly, in the case of ***Tejinder Pal Singh Malhotra Versus State of***

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Signing Date:28.11.2026
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Delhi, 2025 SCC OnLine Del 4582, a Coordinate Bench of this Court has held as under:

> *"xxx xxx xxx*
>
> ***67.*** *The investigation in the present case hinges entirely on documentary evidence comprising of the Board Resolutions of the Company, List of Share Transfer and Form No. SH-4. The Applicants have provided all the documentary evidence and repeatedly asserted that no such Form No. SH-4 was ever executed. Even the Company has mentioned that Form No. SH-4 is not traceable in the records of the Company and the RoC has also not provided the same to the IO, which supports the stand of the Applicant about non-existence of Form No. SH-4.* ***Notably, the custodial interrogation is requested only to ascertain the possession of Form No. SH-4. When no such document exists as admitted by the Applicants, there is no purpose of custodial interrogation of the Applicants.***
>
> ***68.*** *The Applicants have joined the investigation and responded to multiple notices under Section 94 of BNSS. They do not have any prior criminal antecedents. They have provided replies and submitted audited financial reports of the Company for past several years. While the IO alleges non-cooperation due to non-production of Form No. SH-4, the Applicants have consistently maintained that the said document does not exist.* ***The mere non-production of a document not in the possession/existence of the Applicants cannot be equated with their non-cooperation.***
>
> ***69.*** ***There is no allegation that interim protection granted to the Applicants has been misused. There is no material indicating tampering of evidence or threat to witnesses. Applicants have appeared before the IO as and when required. They have further undertaken to cooperate with the investigation.***
>
> ***70.*** ***As held in Pradip N. Sharma v. State of Gujarat, 2025 SCC OnLine SC 457, the necessity for custodial interrogation beyond scrutiny of official records must be demonstrated, especially where the case hinges on documentary evidence and presence of the accused can be secured without pre-trial detention.*** *In the present case, no reasons are demonstrated for which custody of the Applicants is essential, beyond reiterating the need for a document, the Applicants disclaims having and*

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Signing Date:28.11.2026
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the RoC deny possessing. Since the Applicants have joined the investigation, no purpose would be served by subjecting the Applicants to custodial interrogation.

71. ***<u>As regards the submission of the State that grant of anticipatory bail to the Applicants would prevent the IO from conducting investigation and recovering documents, the State can pursue the remedies available under the law to seek cancellation of Anticipatory Bail granted to the Applicants, if the Applicants misuse the same by not co-operating with the investigation and not providing the documents other than Form No. SH-4, which admittedly does not exist or attempting to tamper evidence or influence the Complainant or commit any act prejudicial to the records of the case.</u>***

72. *Thus, in light of the above observations and considering the overall facts and circumstance of the case, there is absence of necessity for custodial interrogation. Having carefully examined the contents of the FIR, Status Report and oral submissions of the Applicants, Complainant and the State, this is a fit case for grant of Anticipatory Bail to the Applicants with necessary conditions to ensure cooperation and appearance before the IO for the purpose of investigation.*

xxx xxx xxx"

(Emphasis Supplied)

13. Accordingly, the Court has to balance the personal liberty of a person under Article 21 of the Constitution of India, 1950 ("Constitution"), with the interest of investigation.

14. This Court notes that in the present case the petitioner has joined the investigation and cooperated with the Investigating Officer ("IO"). There is nothing on record to indicate that he is likely to abscond, tamper with the evidence or influence any witnesses.

15. It has been contended on behalf of the State that custodial interrogation is necessary to recover the original documents relating to the subject property. The petitioner, however, reported the loss of those documents in the year 2024. At this stage, the mere fact that the said documents have not been

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Signing Date:28.11.2026
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produced is not a ground to infer that the petitioner is seeking to evade the investigation.

16. As per the case of the prosecution, the petitioner is stated to be in possession of the shop in question since the year 2016. He is also a permanent resident of Delhi, as per the address given in the Memo of Parties. In these circumstances, and in the absence of any material to suggest that he is likely to abscond, the petitioner does not pose a flight risk.

17. There is a civil litigation pending between the parties since the year 2023, while the present FIR has been lodged in April, 2026. The petitioner has already joined the investigation and further undertakes before this Court to continue to join the investigation as and when called by the police.

18. It is to be noted that there is nothing on record to show that the petitioner has threatened the complainant or attempted to influence the investigation in any manner.

19. Besides, this Court also notes the submission on behalf of the petitioner that the petitioner was called for interrogation only once on 03rd August, 2026, when he duly joined the investigation. Thereafter, the petitioner has not been called by the police for any interrogation. The said fact has not been disputed by the learned APP.

20. As regards the earlier notices issued by the police to the petitioner to join the investigation, the documents on record clearly show that notice for appearing before the police on 22nd June, 2026, was served upon the petitioner on 23rd June, 2026. Another notice requiring the petitioner to join the investigation on 14th June, 2026, was also received by the petitioner on 23rd June, 2026.

21. It has also come to the fore that though the respondent no. 2 has stated

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that the petitioner is in possession as his tenant, however, no rent agreement with the petitioner or rent receipts issued to the petitioner are available in this regard.

22. The inquiry with regard to the income tax records and electricity department would not require the custodial interrogation of the petitioner. The concerned IO is at liberty to interrogate the petitioner in pursuance of the investigation being carried out, including confronting the petitioner with the documentary and oral evidence collected during interrogation.

23. Furthermore, any apprehensions that the petitioner may tamper with the evidence or not cooperate in the investigation can be addressed by imposing suitable conditions while granting anticipatory bail to the petitioner.

24. In view of the observations made hereinabove, this Court finds the present case to be a fit one for the grant of anticipatory bail.

25. Consequently, it is directed that in the event the petitioner is arrested in connection with *FIR No. 127/2026* dated 16th April, 2026, registered at PS Badarpur, New Delhi, under Sections 420/34 of the BNS, he shall be released on bail, subject to furnishing a personal bond in the sum of Rs. 20,000/-, with one surety in the like amount to the satisfaction of the IO/Station House Officer ("SHO"), and further subject to the following conditions:

14.1. The petitioner will report to the IO on each and every occasion, as required by the IO, and will cooperate in the investigation;

14.2. The petitioner shall not, directly or indirectly, influence the complainant, or tamper with the evidence, or otherwise indulge in any act or omission that is unlawful or prejudicial to the proceedings, nor shall he offer any inducement, threat, or promise to any person acquainted with the facts of the case;

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14.3. The petitioner shall furnish his mobile number to the concerned IO/SHO and shall keep the said mobile phone operational and switched on at all times. The mobile number shall not be changed or switched off without prior intimation to the IO/SHO;

14.4. The petitioner shall furnish his complete residential address to the IO/SHO, and will not change his residential address without prior intimation to the IO;

14.5. The petitioner shall not commit any offence during the pendency of these proceedings.

26. The present application is accordingly allowed and disposed of, in the aforesaid terms.

27. The pending application also stands disposed of.

28. It is clarified that the observations made herein are solely for the purpose of adjudication of the present application and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.

MINI PUSHKARNA, J

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