



2026:DHC:8687



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 30th September, 2026**# **CNR No. DLHC010471492026**+ **BAIL APPLN. 4159/2026****GOPAL SHUKLA**

.....Applicant

Through: Mr. Anmol Singh, Advocate.
(M): 9999914499
Email: singh.anmoly44@gmail.com

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Hitesh Vali, APP for the State.
(M): 9971695125
Email: valihitesh@gmail.com
SI Isha, PS Prem Nagar.
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CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (Oral):**

1. The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") seeking grant of Anticipatory bail in connection with *FIR No. 327/2026* dated 01st July, 2026, registered at Police Station ("PS") Prem Nagar, Rohini, Delhi, under Section 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023 ("BNS") and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act").



2. Learned counsel appearing for the applicant submits that the applicant is seeking Anticipatory bail since he apprehends arrest in connection with *FIR No. 327/2026*.
3. He submits that the victim and the applicant are known to each other prior to the alleged incident, as both belong to the same village and their families have cordial relations with each other. He submits that the victim used to call the applicant as “Chacha”/Uncle.
4. He further submits that though the applicant is a resident of Village Bharwaliya in Uttar Pradesh, the applicant works in Ludhiana, Punjab.
5. Learned counsel appearing for the applicant submits that since the victim was upset and angry with her parents following an altercation at her parental home, she called up the applicant and expressed her desire to leave Delhi, and specifically wanted to go to Ludhiana, Punjab, to meet her elder sister, namely, Smt. Manju.
6. He, thus, submits that the victim herself contacted the applicant and requested the applicant to take her to Punjab and drop her at her sister’s house.
7. He further submits that accordingly the applicant took the victim to Ludhiana. However, upon reaching Ludhiana, the applicant found that the victim’s elder sister and her husband were not at the residence and the gate of the residence was locked. Thereafter, the victim’s sister was contacted, who provided a place for the victim to stay, and communicated to the applicant that he should remain with the victim and should not leave her alone.
8. Thus, it is submitted that the applicant has not taken the victim out of his own volition, however, the victim herself had accompanied the applicant.



9. Learned counsel appearing for the applicant submits that thereafter the applicant brought the victim back to Delhi and left her at her parental home.

10. He further denies any allegations as made in the present FIR.

11. *Per contra*, learned Additional Public Prosecutor (“APP”) for the State has handed over to this Court, the statement made by the victim under Section 164 of the Cr.P.C/183 of the BNSS, wherein, she has clearly stated that the applicant, whom she called Uncle, called her up for buying clothes. Subsequently, he first took her to Nangloi, and thereafter, he told her that they would buy clothes from Punjab.

12. Thus, as per the victim, the applicant took her to Punjab and kept her in a room, where she was raped by the applicant multiple times. Thereafter, he brought her back to Delhi and booked her an auto and sent her back to her house.

13. Attention of this Court is also drawn to the Status Report filed by the police before the Trial Court, wherein, it has categorically been stated in the following manner:

“xxx xxx xxx

3. During investigation, victim was recovered and produced by PS-Special Staff Rohini Distt and handed over to IO-SI Ramkishan and information in this regard was given to her mother. Thereafter, the victim was medically examined at SGM Hospital vide MLC No.10471/26 in which she stated allegations of sexual assault.

4. During investigation, SI Ramkishan recorded statement U/s 180 BNSS of victim in which she stated that she was on talking terms with one boy namely Gopal Shukla S/o Prem Shankar Shukla R/o Vill-Barwaliya, PS-Kaptanganj, Distt-Basti, UP. On 29/06/26, Gopal called her and told her to come along with him to buy clothes for her. Then Gopal took her by bus to Ludhiana, Punjab where they stayed in a rented house for few days where Gopal forcefully made physical relation with the victim. Then Gopal left her to Nangloi Railway station from where she went to her house.



5. During the course of investigation, victim P's statement under Section 183 BNSS was recorded before the Hon'ble Court wherein she stated that allegations of sexual assault multiple times against accused Gopal Shukla in Ludhiana, Punjab
6. Hence, the case file was marked to the undersigned for further investigation by order of SHO sir. After discussion with senior officers section 64(2)(m) BNS & 6 POCSO ACT was added in the case.
7. During investigation, the victim was produced before CWC and handed over to her parents.
8. During investigation raids were conducted at his house i.e. Vill-Barwaliya, PS-Kaptanganj, Distt-Basti, UP but he was not found at his home.
9. During investigation, undersigned moved application for NBW against accused Gopal Shukla in the Hon'ble Court of Jasjeet Kaur, Ld.ASJ, Rohini Courts, Delhi and the same was allowed by the Hon'ble Court vide order dated 11/08/26.

xxx xxx xxx "

14. Perusal of the aforesaid Status Report categorically denotes the fact with regard to the victim having made a specific complaint and statement as regards sexual assault on her multiple times.

15. This Court is also informed by learned APP that the applicant has not joined the investigation proceedings despite various notices by the police. He, thus, submits that Non-Bailable Warrants ("NBWs") have been issued against the applicant, and proceedings for declaring the applicant a 'Proclaimed Offender' have also been initiated.

16. Having heard learned counsel appearing for the parties, this Court notes that the statement of the victim with regard to the applicant committing multiple sexual assaults on her is categorical. Further, this Court also takes note of the fact that the applicant has failed to join the investigation proceedings, on account of which NBW was issued against



him. Further, on account of non-cooperation by the applicant, the proceedings for declaring the applicant a 'Proclaimed Offender' are also under way.

17. This Court also notes the submission made by learned APP that custodial interrogation of the applicant is required for investigation.

18. In this regard, reference may be made to the judgment in the case of ***Srikant Upadhyay and Others Versus State of Bihar and Another, (2024) 12 SCC 382***, whereby, with regard to the grant of anticipatory bail, Supreme Court has noted as follows:

“xxx xxx xxx

21. Section 70(2)CrPC mandates that every warrant issued under Section 70(1)CrPC shall remain in force until it is cancelled by the court which issued it, or until it is executed. In this case, as noticed hereinbefore, the bailable warrants and thereafter the non-bailable warrants, were issued against the appellants. They were neither cancelled by the trial court nor were they executed. It is not their case that they have successfully challenged them. Sections 19, 20, 21, 174 and 174-A IPC assume relevance in this context. They, insofar as relevant read thus.....:

xxx xxx xxx

23. Bearing in mind the aforesaid provisions and position, we will refer to certain relevant decisions. In Savitaben Govindbhai Patel v. State of Gujarat [Savitaben Govindbhai Patel v. State of Gujarat, 2004 SCC OnLine Guj 345] , the High Court of Gujarat observed thus: (SCC OnLine Guj para 9)

“9. Filing of an anticipatory bail application by the petitioner-accused through their advocate cannot be said to be an appearance of the petitioner-accused in a competent court, so far as proceeding initiated under Sections 82/83 of the Code is concerned; otherwise each absconding accused would try to create shelter by filing an anticipatory bail application to avoid obligation to appear before the court



and raises the proceeding under Section 83 of the Code claiming that he cannot be termed as an absconder in the eye of the law. Physical appearance before the Court is most important, if relevant scheme of Sections 82 and 83, is read closely.”

(emphasis supplied)

24. We are in full agreement with the view taken by the Gujarat High Court that filing of an anticipatory bail through an advocate would not and could not be treated as appearance before a court by a person against whom such proceedings, as mentioned above are instituted.

25. The meaning of the term “absconded” has been dealt by us hereinbefore. We found that its etymological and original sense is that the accused is hiding himself. What is required as proof for absconding is the evidence to the effect that the person concerned was knowing that he was wanted and also about pendency of warrant of arrest. A detailed discussion is not warranted in this case to understand that the appellants were actually absconding. It is not in dispute that they were served with the “summons”. The fact thatailable warrants were issued against them on 12-4-2022 is also not disputed, as the appellants themselves have produced the order whereunderailable warrants were issued against them. We have already referred to Section 70(2)CrPC which would reveal the position that once a warrant is issued it would remain in force until it is cancelled by the court which issued it or until its execution. There is no case for the appellants that either of such events had occurred in this case to make the warrants unenforceable. They also got no case that their application was interfered with by a higher court. That apart, it is a fact that the appellants themselves on 23-8-2022, moved a bail-cum-surrender application before the trial court but withdrew the same fearing arrest. It is also relevant to note that in the case on hand even while contending that they were before a court, the appellants got no case that in terms of the provisions under Section 438(1-B)CrPC an order for their presence before the Court was ordered either suo motu by the Court or on an application by the Public Prosecutor. When that be the circumstance, the appellants cannot be allowed to contend that they were not hiding or concealing themselves from arrest



or that they were not knowing that they were wanted in a court of law.

30. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the court depending on the facts and circumstances of each case. While called upon to exercise the said power, the court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the court shall not pass an interim protection pending consideration of such application as the section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously defying orders and keeps absconding is not entitled to such grant.

xxx xxx xxx”

(Emphasis Supplied)

19. In the present case when NBW has been issued against the petitioner and proceedings for declaring the petitioner as Proclaimed Offender have also been initiated, the NBW is still enforceable and has its legal ramifications. It is not the case of the petitioner that such NBW already stands cancelled or the proceedings against him for declaring him as Proclaimed Offender have been dropped.

20. Considering the overall conspectus of the present case, no ground is made out for granting anticipatory bail to the applicant.



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21. The present petition is accordingly dismissed.

MINI PUSHKARNA, J

SEPTEMBER 30, 2026/c