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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 17.01.2025*+ **BAIL APPLN. 3825/2024 & CRL.M.A. 31710/2024**

PRIYANSHU PANDEY

.....Petitioner

Through: Mr. Chandra Shekhar Yadav,
Advocate

versus

STATE OF NCT OF DELHI THROUGH SHORespondent

Through: Mr. Raj Kumar, APP for the
State**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J (ORAL)**

1. The present application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the applicant seeking grant of anticipatory bail in case arising out of FIR bearing no. 340/2024 for offence punishable under Section 110/351(2)/331(8)/191/3(5)/61(2)A/70(1)/74(1) of BNS, 2023 and Section 8 of the Protection of Children from Sexual Offences Act (POCSO Act), 2012, registered at Police Station New Ashok Nagar, Delhi.

2. Briefly stated, the facts of the present case are that on 11.08.2024, a PCR call *vide* DD No.21A regarding quarrel was



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received at Police Station New Ashok Nagar, upon which the police officials had reached the spot, where they had found that injured complainant 'K' and Smt. Sunita had been taken to the LBS Hospital through PCR van. Thereafter, the complainant 'K' along with her mother and brother had come to the police station and her statement was recorded wherein she stated that there was a property dispute between them and her Uncle (*Tau*) namely Ram Vilash and due to this reason, Ram Vilash along with his three sons namely Chitranshu, Priyanshu and Betu had come to her house earlier and quarrelled with them and had also threatened them with dire consequences. She further stated that on 04.08.2024, Ram Vilash and his three sons had also attacked her father in Sector-12, Noida. She further alleged that on 11.08.2024, her uncle had sent 10-12 men equipped with "*danda*" to assault her family members at 03:10 AM, who had attacked her family members with intention to kill every member in the house and they had dragged the complainant and her mother to street and attacked them, due to which both of them had sustained head injuries. It is further alleged in the FIR that although her uncle and his sons were not present at the spot, but the complainant suspected that the attack was planned by Ram Vilash and his three sons. Thereafter, the complainant and her injured family members were taken to the hospital and their MLCs were prepared. Accordingly, the FIR in the present case was registered. During the course of investigation, the brother of the complainant produced one pen-drive containing the CCTV footage of the crime scene. Some of the accused persons namely Vikas, Muzahid, Shivam and Kapil were arrested on



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14.08.2014. The statement of complainant was recorded under Section 164 of Cr.P.C.

3. The learned counsel for the present accused/applicant argues that applicant has been falsely implicated in the present case, and he has no role to play in the commission of alleged offence. It is contended that the CCTV footage of the incident clearly does not capture the applicant and to the contrary, the CCTV footage of the house of applicant in Lucknow reveals that he was present at his home in Lucknow at the time of incident. In this regard, this Court's attention is also drawn to the CDR location of the mobile phone of the applicant. Therefore, it is prayed that the present bail application be allowed.

4. On the other hand, the learned APP for the State argues that the allegations against the present accused are serious in nature and the applicant has not yet joined investigation. It is stated that investigation is still at an initial stage and therefore, the said application be dismissed.

5. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

6. In the present case, this Court notes that the applicant herein was granted interim protection from arrest by the learned Sessions Court, but his bail application was later dismissed. He has also been granted interim protection by this Court. However, the learned APP for the State submits that since the CCTV footage was not available at that point of time, the interim protection had been granted to the



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accused by the learned Sessions Court. When a query was put to the learned APP for the State regarding CCTV footage, on instructions from the IO, he conceded that the CCTV footage also does not support the prosecution's case *qua* the present applicant. Though, he states that the complainant alleged that she had been sexually assaulted on the date of incident by the accused, the CCTV footage of the scene does not show the present accused/applicant on the said date.

7. Further, as evident from a bare perusal of the FIR, the complainant had clearly stated that the applicant herein was not present at the time of incident i.e. on 11.08.2024. However, in her statement recorded under Section 164 of Cr.P.C., after six days, she had improved her version and alleged that the present applicant was present at the spot of incident and that he had sexually assaulted her. However, as noted above, the CCTV footage of the spot does not reveal the presence of applicant. In fact, during the course of investigation, the applicant had joined investigation and handed over the CCTV footage of their residence at Lucknow to show that both Chitranshu and Priyanshu were in Lucknow on 10.08.2024 and 11.08.2024, and not in Delhi.

8. Therefore, considering the overall facts and circumstances of the case, and for the reasons recorded hereinabove, this Court is inclined to allow the present bail application. In view thereof, it is directed that in event of arrest, the applicant shall be released on bail, subject to furnishing a personal bond in the sum of Rs.15,000/- with



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one surety of like amount to the satisfaction of the IO/SHO concerned, on the following conditions:

- i. The applicant shall not leave the country without prior permission of the learned Court concerned.
 - ii. The applicant shall remain available on mobile number, shared by him with the I.O./S.H.O.
 - iii. The applicant shall join investigation as and when asked by the I.O./S.H.O.
9. The present application is accordingly disposed of. Pending application, if any, also stands disposed of.
10. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 17, 2025/ns