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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 17.01.2025*+ **CRL.M.C. 82/2025 & CRL.M.A.1133/2025**

CHITRANSHU PANDEYPetitioner

Through: Mr. Chandra Shekhar Yadav,
Advocate

versus

THE STATE NCT OF DELHIRespondent

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 petition under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the petitioner seeking quashing of the impugned order dated 10.12.2024 passed under Section 82 of the Code of Criminal Procedure, 1973 (hereafter 'Cr.P.C.') read with Section 84 of BNSS 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, 2012 (hereafter 'POCSO Act'), 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' alongwith 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 alongwith 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. In the present petition, the case set out by the petitioner is that on 13.09.2024, the learned Sessions Court had issued Non-Bailable Warrants against him and thereafter, had issued process under Section 82 of Cr.P.C. against him on 26.09.2024. Subsequently, *vide* the impugned order dated 10.12.2024, the petitioner was declared proclaimed offender and it was observed that he was evading arrest and concealing himself. The petitioner now seeks setting aside of the order declaring him as proclaimed offender.

4. However, this Court notes that the petitioner herein had moved on anticipatory bail application before the learned Sessions Court on 16.08.2024 and *vide* order dated 17.08.2024, he was granted interim protection and was directed to join investigation. Concededly, the petitioner herein had joined investigation on 23.08.2024 as well as 29.08.2024, and had informed the I.O. that he was at his home, in Lucknow, on the day of alleged incident and not in Delhi. The pen drive of the CCTV footage of the house of petitioner in Lucknow was also handed over to the I.O. However, as apparent from the record, the I.O had thereafter moved applications seeking NBWs and initiation of proceedings under Section 82 of Cr.P.C against the petitioner herein, even though the petitioner had joined investigation at least on two occasions.

5. It is also not in dispute that after the dismissal of anticipatory bail application by the learned Sessions Court on 04.10.2024, the



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petitioner herein had approached this Court for grant of anticipatory bail on 22.11.2024. The impugned order in this case was passed on 10.12.2024. Clearly, though the petitioner herein was not granted any interim protection by this Court, however, *vide* order passed today in *BAIL APPLN. 4321/2024*, this Court has granted anticipatory bail to the present petitioner, taking into account the fact that it is *prima facie* clear that there are contradictions in the statement of the victim recorded at the time of registration of FIR and before the learned Magistrate, with regard to the presence of the petitioner and his role in the alleged offence, and also the fact that CCTV footage of the incident does not support the prosecution's case and the CCTV footage of the petitioner's home in Lucknow reveals his presence at his home on the date of incident and not in Delhi.

6. Therefore, considering the overall facts and circumstances of the case, and considering the fact that the petitioner had earlier joined investigation pursuant to grant of interim protection by the learned Sessions Court, and in the interest of justice as this Court has found it a fit case for grant of anticipatory bail, this Court is inclined to quash the impugned order dated 10.12.2024 declaring the present petitioner as a proclaimed offender. Ordered accordingly.

7. The present petition is accordingly disposed of. Pending application, if any, also stands disposed of.

8. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 17, 2025/ns