

(2025) 08 DEL CK 0626

In the Delhi High Court

Case No : Bail Application No.2832 Of 2025 & Criminal Miscellaneous Petition
No. 22051 Of 2025

Nawab

APPELLANT

Vs

State Of Nct Of Delhi And Ors

RESPONDENT

Date of Decision : 01-08-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438
Bharatiya Nayaya Sanhita, 2023 — Section 3(5), 232(1), 351(2)
Protection of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2025) 08 DEL CK 0626

Hon'ble Judges : Dr. Swarana Kanta Sharma, J

Bench : Single Bench

Advocate : Kamlesh Kumar Mishra, Chandana Debnath, Renu, Manoj Pant,
Shekhar Raj Sharma, Nidhi Narwal, Ravinder Kumar

Final Decision : Dismissed

Judgement

Dr. Swarana Kanta Sharma, J

CRL.M.A. 22052/2025 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 2832/2025

3. By way of the present application, the applicant seeks grant of transit anticipatory bail in case arising out of FIR No. 328/2025, registered on 08.07.2025, at Police Station Mujesar, Faridabad, Haryana for the commission of offence under Sections 232(1)/3(5)/351(2) of the Bharatiya Nayaya Sanhita, 2023 (hereafter 'BNS') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'POCSO Act').

4. In the present case, the complainant 'X', a minor girl aged 16 at the relevant

time, alleges that she came in contact with Neha Khan in 2023, who later introduced her to her brother Aamir Hussain. After a series of exploitative events involving Aamir and his family, an FIR was registered on 14.03.2024. A few days later, Neha Khan allegedly contacted the complainant via Instagram, blackmailed her using obscene photos and videos, and brought her to her residence in Nangloi, Delhi, on 05.04.2024. At Neha's residence, the complainant came in contact with accused Nawab Khan (the present applicant), who would regularly visit Neha and began interacting with the complainant inappropriately. After some time, she was taken to Nawab Khan's house, where she alleges she was kept for approximately four months. During this period, Nawab Khan allegedly sexually assaulted her on multiple occasions when his wife was out and their children were at tuition. He is also alleged to have threatened to kill her and her family if she disclosed the abuse. Later, Neha and Nawab allegedly confined her in a room at Kamruddin Nagar, Nangloi, Delhi, under the false name of 'Ayat Khan'. She was given limited food, forced to wear unclean clothes, and coerced into memorising and reciting Namaz and Kalma, failing which she was physically beaten. Nawab Khan allegedly continued visiting her, forcing her to cook meat and subjecting her to sexual assault, often under the influence of alcohol. She also alleges that Nawab and Neha would consume alcohol and smoke in her presence, and recorded videos (some of which were uploaded on Instagram) including one where Nawab is allegedly seen in police uniform. The complainant further states that she was taken to Sector 10, Dwarka where she was made to wear a burqa. She overheard Nawab Khan and Aamir's father speaking about turning India into an Islamic nation by 2047. On 22.10.2024, she was taken to Sector 12 Court by Nawab and Neha and brought in a burqa. There, she was threatened that unless she gave a statement favouring Aamir, her obscene photos and videos would be made public and her family would be killed. Under pressure, she gave the statement, after which Aamir was granted bail on 18.12.2024. She was rescued from their custody by her family on 20.12.2024 with police assistance. Subsequently, on 25.06.2025, Aamir allegedly sent her a photo of her street and threatened her again. Neha too allegedly threatened that her brother would burn the complainant alive. The complainant expressed fear for her life and safety, and that of her family, due to continued threats from Nawab Khan and others. On these allegations, the present FIR was registered.

5. The learned counsel appearing on behalf of the applicant argues that the applicant has been falsely implicated in the present case, and he has no connection with the alleged offence. It is stated that the statement made in the FIR, based on which the FIR has been registered, is completely contrary to the statements made by the complainant in the court in her depositions in another FIR which was registered for the same incident about a year ago. It is argued that the only connection of the applicant herein with this case is that the applicant stood surety for the accused in the first FIR. It is further submitted that the applicant is a resident of Delhi and a completely false and fabricated FIR has been registered against him in Haryana and he needs to be granted transit

anticipatory bail in order to enable him to effectively exercise his legal rights qua the malicious and false prosecution before the Court of competent jurisdiction. Therefore, it is prayed that the applicant be granted transit anticipatory bail.

6. The learned APP for the State, on the other hand, strongly opposes the present bail application and argues that the concerned Court of Faridabad is merely 30 minutes away, and there is no reasonable justification as to why the applicant should seek transit anticipatory bail from this Court. It is further pointed out that the applicant is also previously involved in a case of perjury, and considering the allegations in the FIR, bail be not granted to the applicant herein.

7. The learned counsel for the prosecutrix has also appeared and opposed the present bail application.

8. This Court has heard arguments addressed on behalf of both the parties and perused the record.

9. In the present case, prima facie, the allegations against the present applicant pertain to repeated sexual assault of the minor prosecutrix over an extended period. The applicant, a police constable, is further alleged to have threatened the prosecutrix with dire consequences to silence her.

10. The applicant is seeking transit anticipatory bail from this Court on the ground that he be granted protection for a limited period to enable him to approach the Court of competent jurisdiction in Faridabad, Haryana, where the FIR has been registered. It is his case that he is a resident of Delhi, and therefore requires interim protection during this intervening period. However, as rightly submitted by the learned APP for the State, the present matter does not involve any exceptional or compelling circumstances that would warrant the exercise of jurisdiction by this Court for grant of transit anticipatory bail, and notably, the place where the FIR has been registered – Faridabad, Haryana – is situated within the National Capital Region and is in close proximity to Delhi. In this regard, it is relevant to take note of the decision of Hon'ble Supreme Court in case of *Priya Indoria v. State of Karnataka & Ors.*: (2024) 4 SCC 749, wherein it was held as under:

"93. In view of what we have discussed above, we are of the view that considering the constitutional imperative of protecting a citizen's right to life, personal liberty and dignity, the High Court or the Court of Session could grant limited anticipatory bail in the form of an interim protection under Section 438 CrPC in the interest of justice with respect to an FIR registered outside the territorial jurisdiction of the said court, and subject to the following conditions:

93.1. Prior to passing an order of limited anticipatory bail, the investigating officer and Public Prosecutor who are seized of the FIR shall be issued notice on the first date of the hearing, though the court in an appropriate case would have the discretion to grant interim anticipatory bail.

93.2. The order of grant of limited anticipatory bail must record reasons as to

why the applicant apprehends an inter-State arrest and the impact of such grant of limited anticipatory bail or interim protection, as the case may be, on the status of the investigation.

93.3. The jurisdiction in which the cognizance of the offence has been taken does not exclude the said offence from the scope of anticipatory bail by way of a State Amendment to Section 438 CrPC.

93.4. The applicant for anticipatory bail must satisfy the court regarding his inability to seek anticipatory bail from the court which has the territorial jurisdiction to take cognizance of the offence. The grounds raised by the applicant may be-

(a) a reasonable and immediate threat to life, personal liberty and bodily harm in the jurisdiction where the FIR is registered;

(b) the apprehension of violation of right to liberty or impediments owing to arbitrariness;

(c) the medical status/disability of the person seeking extra-territorial limited anticipatory bail.

94. It would be impossible to fully account for all exigent circumstances in which an order of extra-territorial anticipatory bail may be imminently essential to safeguard the fundamental rights of the applicant. We reiterate that such power to grant extra-territorial anticipatory bail should be exercised in exceptional and compelling circumstances only which means where, denying transit anticipatory bail or interim protection to enable the applicant to make an application under Section 438 CrPC before a court of competent jurisdiction would cause irreparable and irreversible prejudice to the applicant. The court, while considering such an application for extra-territorial anticipatory bail, in case it deems fit may grant interim protection instead for a fixed period and direct the applicant to make an application before a court of competent jurisdiction.

95. We therefore set aside the judgment of the Patna High Court in *Zafrul Hassan* and judgment of the Calcutta High Court in *Sadhan Chandra Kolay* to the extent that they hold that the High Court does not possess jurisdiction to grant extra-territorial anticipatory bail i.e. even a limited or transit anticipatory bail..."

(Emphasis added)

11. Clearly, the applicant does not fall within the categories contemplated by the Hon'ble Supreme Court in the aforesaid decision. Firstly, the applicant himself is a police officer and has not shown any serious threat to his safety, nor any material circumstances which would prevent him from approaching the competent court in Faridabad. Secondly, he has also not shown any medical situation/disability which would prevent him from seeking relief from the Court concerned. Thirdly, the distance between this Court and the Court of competent jurisdiction i.e. in Faridabad, Haryana is not substantial and does not in any way

cause prejudice to the applicant's right to seek appropriate relief. Moreover, even on a prima facie consideration of the nature of allegations levelled against the applicant, which are grave and serious, this Court is not inclined to exercise discretion in his favour.

12. In view of the aforesaid reasons, and without expressing any opinion on the merits or veracity of the allegations, this Court finds no ground to entertain the present application seeking transit anticipatory bail.

13. Accordingly, the application is dismissed.

14. It is, however, clarified that the applicant shall be at liberty to approach the competent court having jurisdiction over the matter for seeking appropriate relief, in accordance with law.

15. It is also clarified that nothing stated in this order shall be construed as an expression of opinion on the merits of the case, as this Court is only adjudicating upon the limited issue of grant of transit anticipatory bail.

16. The order be uploaded on the website forthwith.