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

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Judgment reserved on: 21.07.2025
Judgment pronounced on: 28.07.2025

+ **BAIL APPLN. 2488/2025**

DEVENDER KUMAR

.....Petitioner

Through: Mr. Ramesh Gupta, Sr. Advocate
with Ms. Mumtaz Ahmed, Mr.
Shailendra Singh and Mr. Satish
Sharma, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T

“Avarice is a common frailty of mankind and Robert Walpole’s famous pronouncement that all men have their price, notwithstanding the unsavoury cynicism that it suggests, is not very far from truth. As far back as more than two centuries ago, it was Burke who cautioned: “Among a people generally corrupt, liberty cannot last long.” In more recent years, Romain Rolland lamented that France fell because there was corruption without indignation. Corruption has, in it, very dangerous potentialities. Corruption, a word of wide connotation has, in respect of almost all the spheres of our day-to-day life, all the world over, the limited meaning of allowing decisions and actions to be influenced not by the rights or wrongs of a case but by the prospects of monetary gains or other selfish considerations.”

{2025 SCC OnLine SC 488}

1. The accused/applicant, posted as Head Constable in Delhi Police,



seeks anticipatory bail in case FIR No.04/2025 of PS Vigilance for offence under Section, 7 Prevention of Corruption Act and 61(2), Bharatiya Nagarik Sanhita (BNS). Reply/status report was filed on behalf of respondent, strongly opposing the anticipatory bail application. I heard learned senior counsel for accused/applicant and learned APP for State, who took me through record.

2. According to prosecution case, on 15.04.2025 at about 11:00am, one Kalu, a Bad Character (BC) of PS Nihal Vihar appeared before the Vigilance Officer of the Delhi Police, and complained as follows.

2.1 In the year 2022-23, while being resident of Nangloi, he came in contact with Head Constable Devender (*the accused/applicant*) and Head Constable Manoj, as they were posted in PS Nihal Vihar. On 30.03.2025 at about 07:00pm, when after purchasing liquor he was going home, HC Manoj and the accused/applicant stopped him and demanded Rs.1,00,000/-, threatening to get him arrested in some complicated case; and they took him to a room on third floor of PS Paschim Vihar, Miyanwala, where both of them were posted. Ultimately the deal was struck for Rs.60,000/- and at about 11:00pm same day, after taking Rs.20,000/- from him, they allowed him to go with the direction to bring the balance Rs.40,000/-. Despite his having reformed himself, he was being pressurized by the accused/applicant and HC Manoj to pay the balance Rs.40,000/-, therefore, action be taken against them.



2.2 After completing procedural formalities of attestation in presence of *panch* witness Mr. Rajnikant Ranjan of NDMC, 80 currency notes of Rs.500/- denomination were handed over by the complainant *de facto* Kalu to the Inspector, who recorded the serial numbers of currency notes and conducted the necessary precursor for raid by coating the notes with phenolphthalein powder and handed over the same to Kalu, who kept the same in right pocket of his pant.

2.3 Kalu was instructed to keep the *panch* witness with him so that the latter could clearly listen to the handing over and taking over of the bribe amount. The *panch* witness also was issued necessary instructions including signaling the police team on being satisfied about the demand and delivery of bribe. A recording device in the shape of pen drive also was handed over to Kalu with the directions to keep the same switched on at the time of conversation. At about 04:45pm, Inspector Paramjeet Singh and the staff accompanying him gathered at Radisson Blue Hotel, Paschim Vihar, where the Inspector briefed his team. Kalu informed the raiding team that the accused/applicant had called him in the park near PS Paschim Vihar Miyanwala. Accordingly, Kalu was sent to the spot and the raiding team took their position.

2.4 After sometime, Kalu informed that the accused/applicant had telephonically told him over WhatsApp call that HC Manoj was being sent



on road in front of the police station to collect the money. The Inspector told the *panch* witness to stay near Kalu to observe the entire incident and the moment HC Manoj receives the bribe money, Kalu would send a signal by waving over his head. The members of the raiding team sat in the car, awaiting HC Manoj.

2.5 At about 06:00pm, HC Manoj came in police uniform on his motorcycle from the gate of PS Paschim Vihar West on the main road and stopped near car of Kalu, and started speaking with him. Kalu also came out of his car and both of them started talking near car of Kalu. At that time, *panch* witness Rajnikant Ranjan also was present nearby, trying to hear the conversation. HC Manoj made Kalu sit on motorcycle and after travelling about 50 meters, stopped the motorcycle by the road side. The raiding team also followed them on foot keeping a watch over them. HC Manoj and Kalu got down from the motorcycle and started talking. Kalu handed over the phenolphthalein powder coated currency notes of Rs.40,000/-, which HC Manoj took in his right hand and placed the same in right pocket of his pant. But before the raiding team could apprehend him, HC Manoj fled on his motorcycle with the bribe money towards Bhairav Enclave. The motorcycle did not bear a clear number plate. The raiding team followed HC Manoj and went to different places but could not find him. Even mobile phone of HC Manoj got switched off.

3. During arguments on this anticipatory bail application, learned senior



counsel for accused/applicant contended that at the most the offence alleged against the accused/applicant and HC Manoj is extortion, but not under the Prevention of Corruption Act. Learned senior counsel contended that prosecution case suffers unexplained delay in lodging the complaint, in the sense that according to the same, Kalu received threat and money demand on 30.03.2025 but he lodged complaint only on 15.04.2025. Since the accused/applicant joined investigation as and when called, and now nothing has to be recovered from him, it is a fit case to grant anticipatory bail. Learned senior counsel also argued that issuance of non-bailable warrants against the accused is no ground to deny indulgence, if otherwise case for anticipatory bail is made out, as held in order dated 13.05.2022 of a coordinate bench of this court in Bail Application No.143/2022 titled *Ashish vs Central Bureau of Investigation*.

4. On the other hand, learned prosecutor strongly opposed the anticipatory bail application, contending that since the accused/applicant and HC Manoj demanded money from Kalu in their capacity as public servant and HC Manoj received the bribe money, while in uniform, it is clearly an offence under the Prevention of Corruption Act. Since despite three notices the accused/applicant did not join investigation, non-bailable warrants had to be obtained against him, therefore the accused/applicant is not entitled to anticipatory bail, according to prosecution. Learned prosecutor also submitted that accused HC Manoj surrendered and has not been granted bail till date, so also the accused/applicant does not deserve the relief sought.



5. To begin with, no doubt the legal position is that bail is rule and jail is exception. But that proposition cannot be stretched to anticipatory bail. Grant of anticipatory bail cannot be a rule. While considering grant or denial of anticipatory bail, what the court has to keep in mind is the factors to be considered while granting or denying the regular bail, plus amongst other factors, the need for custodial interrogation, recovery to be affected and the overall impact on the society at large. The court must be cautious that grant of anticipatory bail should not hamper or in any manner slow down the investigation. At this stage, the court must also be cautious that the decision should not convey to the society at large that one can commit a crime with impunity and walk away with an anticipatory bail in hand; such impression generates cynicism and distrust in the Rule of Law. The court dealing with anticipatory bail issue has to carry out balance between the cause of accused and the cause of public justice.

6. As held by the Supreme Court in the case of ***Srikant Upadhyay and Ors. vs State of Bihar and Anr.***, 2024 SCC OnLine SC 282:

“25. 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 keep absconding is not entitled to such grant.”

7. More recently, in the case of ***Devinder Kumar Bansal vs State of Punjab***, 2025 SCC OnLine SC 488, the Supreme Court, specifically dealing with the grant of anticipatory bail in corruption cases upheld the denial of anticipatory bail by the High Court and observed thus:

“21. The parameters for grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has been falsely roped in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner-accused for grant of anticipatory bail and there is no frivolity in the prosecution.

22. In the aforesaid context, we may refer to a pronouncement in CBI v. V. Vijay Sai Reddy [CBI v. V. Vijay Sai Reddy, (2013) 7 SCC 452 : (2013) 3 SCC (Cri) 563, wherein this Court expressed thus: (SCC p. 465, para 34)

“34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead



of “the evidence” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

23. The presumption of innocence, by itself, cannot be the sole consideration for grant of anticipatory bail. The presumption of innocence is one of the considerations, which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over solicitous homage to the accused’s liberty can, sometimes, defeat the cause of public justice.

24. If liberty is to be denied to an accused to ensure corruption free society, then the courts should not hesitate in denying such liberty. Where overwhelming considerations in the nature aforesaid require denial of anticipatory bail, it has to be denied. It is altogether a different thing to say that once the investigation is over and charge-sheet is filed, the court may consider to grant regular bail to a public servant accused of indulging in corruption.”

8. Falling back to the present case, this court is dealing with the issue of grant or denial of anticipatory bail to a Head Constable in Delhi Police, accused of corruption.

8.1 The Delhi Police plays a pivotal role in safeguarding the capital of our nation by maintaining law and order in a complex and high pressure environment. Numerous police officers and officials tirelessly work with complete honesty and dedication, often at personal risk, showing exemplary integrity. But shadow of corruption continues to plague parts of police system, thereby undermining public trust. Reports of corruption in police aimed even at poor and marginalized sections of the society contribute to



perception of injustice. Yet it would be unfair to paint the entire police force with the same brush. Certainly, not every police official is corrupt. Pertaining to this organ of the State, far more rampant than corruption is the folklore of corruption. But wherever it exists, the decision makers, be it in judiciary or even executive, must use all force to root it out.

8.2 The unrest in society caused by corruption by persons highly placed significantly generates cynicism against the system, thereby denting the efficacy of judicial system meant for creating a peaceful society. Corruption stands at no lesser footing than the conventional bodily crimes. Rather, corruption severely injures the body of the entire society. Victims of such crimes are not just the 'Kalus' of the society, but all of us – the entire society, therefore the societal approach to corruption should be of not just “zero tolerance”, but “absolute intolerance”.

8.3 In corruption cases, while dealing with the issue of anticipatory bail, the court has to be cautious that the decision should not convey to the society at large a legal system tolerant to this crime. Of course, one is not advocating for a zero scope for anticipatory bail in corruption cases; in extremely exceptional circumstances where the court is satisfied about lack of truth in the charges of corruption, grant of anticipatory bail can be justified. But granting anticipatory bail in corruption cases applying routine parameters would not be safe. While analyzing the corruption cases, the court also must keep in mind that the offenders, being well experienced and



in position of dominance over the victim, the manner in which such offences are committed would be novel, so the court must be able to read between the lines while appreciating the material on record in such cases.

9. When it comes to police officials indulging in corruption, it would be too simplistic to think that the police official, who is well experienced having been part of many such raids, would so gullibly accept the phenolphthalein coated currency notes in hand. That is what happened in the present case as well. As mentioned above, according to prosecution case, the accused/applicant personally did not receive the bribe money; he directed Kalu to hand over the same to HC Manoj, who in turn met Kalu on road and taking Kalu pillion on the motorcycle drove over some distance and thereafter, taking the currency notes from Kalu, fled away.

9.1 Of course, at this stage, I must again add a cautious rider that this entire sequence is what the prosecution has alleged and the facts are yet to be tested through trial. The purpose of taking note of this sequence is only to the extent of examining the facts and the question as to whether this is a fit case to grant anticipatory bail to the accused/applicant.

10. I am unable to find myself convinced with the argument of learned senior counsel for the accused/applicant that there is unexplained delay in lodging the complaint, in the sense that Kalu allegedly received threat and money demand on 30.03.2025 but lodged complaint only on 15.04.2025. It



is not a case of an ordinary citizen being demanded bribe. It is a case of a BC of an area, from whom bribe is allegedly demanded, and that too by police officials of the same area. It would require gathering courage in such situation to even lodge a complaint. In his statement, registered as FIR, Kalu clearly stated that he has reformed himself, but even after taking Rs.20,000/- from him under threat of false implication, the accused persons continued to harass him, demanding the balance bribe amount.

11. Similarly, argument of learned senior counsel for accused/applicant that at the most, the offence alleged is extortion, not an offence under the Prevention of Corruption Act, fails to convince. The accused/applicant is a police official, who allegedly threatened the complainant *de facto*, a BC of the area, with implication in false case, if the demanded amount of Rs.1,00,000/- (*later reduced to Rs.60,000/-*) was not paid. In the present proceedings, further detailed analysis of this argument would be tantamount to overstepping the jurisdiction of the trial court, where consideration of charge to be framed is yet to be done.

12. As regards the argument of learned senior counsel for accused/applicant that he is entitled to anticipatory bail because now nothing has to be recovered from him, according to the status report filed by prosecution, the bribe amount (*Rs.20,000/- received by the accused/applicant on 30.03.2025 and Rs.40,000/- received by HC Manoj on 15.04.2025*) and mobile phone of the accused/applicant are yet to be recovered.



13. According to the status report, after HC Manoj fled the spot on his motorcycle, mobile phones of both accused persons were switched off and the IO has seized the audio recording of conversation between Kalu and HC Manoj Kumar. Mobile phone of Kalu also reveals that on 15.04.2025 at 05:31pm, the accused/applicant made a WhatsApp phone call from his mobile phone number while directing Kalu to deliver the bribe money to HC Manoj Kumar. The CDR of mobile phone of the accused/applicant and HC Manoj Kumar show that the accused/applicant called up HC Manoj Kumar at 05:50pm and then at 05:53pm, after which HC Manoj Kumar met Kalu. Thereafter, at 06:48pm, the accused/applicant again telephonically contacted HC Manoj, according to their CDR and thereafter, mobile phones of both accused persons were switched off. The CCTV footage outside PS Paschim Vihar West also corroborates the sequence of events described above. Further, it was also found during investigation that on 31.03.2025, Sonu, brother of Kalu received a WhatsApp call from accused/applicant regarding which, Sonu gave statement to the IO supported by screenshot of the WhatsApp call received from the accused/applicant regarding payment of Rs.20,000/-.

14. As further mentioned in the status report filed by the State, the accused/applicant and HC Manoj became not traceable, so the police team went in their search to their native villages, but even there they were not found and they continued to evade arrest. Both accused persons also



absented from their official duties in PS Paschim Vihar West. Despite services of notices under Section 35(3) BNSS both accused persons opted not to join investigation and filed anticipatory bail applications, which were heard by the Court of Sessions and while granting them interim protection, the learned court directed the accused persons to join investigation. But thereafter, HC Manoj Kumar produced a motorcycle different from the one he was riding at the time of the alleged handing over of bribe money and he destroyed evidence by washing the uniform. The accused/applicant failed to give any explanation regarding his phone call with complainant *de facto* and switching off of his mobile phone and absence from duty. Therefore, on 05.06.2025, the learned Court of Sessions dismissed the anticipatory bail applications of both accused persons, after which despite efforts they could not be arrested, so non-bailable warrants against them were obtained from the learned Special Judge. The accused HC Manoj surrendered before the learned Special Judge but the present accused/applicant continues to evade arrest. Unlike the case of *Ashish* (supra) relied upon by the learned senior counsel for the accused/applicant, present is not a case where the anticipatory bail is opposed by the State only because the Investigating Officer has obtained non-bailable warrants against the accused/applicant. And the role ascribed to the accused/applicant is far more serious than that was ascribed to *Ashish* in the cited case. As described above, the accused/applicant is a police official, who demanded bribe after threatening the BC of the area and ensured that the bribe money was physically handed over to co-accused so that they do not get trapped.



15. In view of the aforesaid, I do not find it a fit case to grant anticipatory bail to the accused/applicant. Therefore, this anticipatory bail application is dismissed.

**GIRISH KATHPALIA
(JUDGE)**

JULY 28, 2025/ry