



2026:DHC:8403



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 28.09.2026*# **CNR No. DLHC010264722026**+ **BAIL APPLN. 2318/2026 & CRL.M.A. 18228/2026****HARCHARAN SINGH BHALLA**

.....Petitioner

Through: Mr. Ajit Sharma, Mr. Ashutosh
Senger, Ms. Sukrti Gupta and
Kanchan Singh, Advocates.

versus

THE STATE (GOVT. OF NCT DELHI)

.....Respondent

Through: Mr. Hitesh Vali, APP for State with
IO/SI Krishan Pal Singh.
Mr. Varun Mehlawat and Mr. R. S.
Juneja, Advocates for Complainant
with Complainant.

CORAM: JUSTICE GIRISH KATHPALIA**J U D G M E N T (ORAL)**

1. The accused/applicant seeks anticipatory bail in case FIR No. 158/2026 of PS Mukherjee Nagar for offences under Section 354/354A/376/

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498A/406/34 IPC and Section 74 of BNS.

2. In furtherance of the last order, it is informed by both sides that order passed by the Canadian Court regarding custody of child of the complainant *de facto* has not been challenged in any court of superior jurisdiction. In the last order (*paragraph 4 thereof*), it was made clear that the ground of the husband of the complainant *de facto* not sending back the child to her can in itself not be a ground to deny anticipatory bail to the present accused/applicant. The previous three orders passed in this bail application show that the concern expressed by this court was the welfare of 03 year old child of the complainant *de facto*, whose custody has been given to her husband in Canada under the orders of a court of competent jurisdiction. But as mentioned above, till date that custody order passed by the Ontario Court of Justice has not been challenged by the complainant *de facto*. Learned counsel for complainant *de facto* submits that the matter before the Ontario Court of Justice is now listed on 27.10.2026 for settlement efforts, so the present anticipatory bail application also may be adjourned to some day after that date. But keeping in mind the old pendency of this anticipatory bail application, I do not find it appropriate to again adjourn the matter. As such, I have heard learned counsel for accused/applicant and learned APP for State assisted by IO/SI Krishan Pal. I have also heard at length the complainant *de facto* as well as her counsel.

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5. Learned APP for State opposes the anticipatory bail application on the ground that despite service of notices, even during the period when the accused/applicant was granted protection from arrest, he did not join investigation. However, in response to a specific query, the IO submits that lastly the accused/applicant was issued notice to join investigation on 03.07.2026 but never thereafter. The IO also admits that in response to notice dated 03.07.2026, the accused/applicant joined investigation. The learned APP also submits that according to the settled legal position, custodial interrogation is always more effective than interrogation while the accused is protected by way of judicial order. Learned APP also submits that investigation is at nascent stage, so anticipatory bail be not granted. It is also submitted by learned prosecutor that since the accused/applicant is the only member of his family who is in India while the remaining accused persons are settled in Canada, the accused/applicant is a flight risk. It is also submitted that against husband and mother-in-law of complainant *de facto*, LoC have been obtained.

6. The complainant *de facto* and her counsel also strongly oppose grant of anticipatory bail. It is submitted by them that the entire *stridhan* of complainant *de facto* continues to be in custody of her in-laws and nothing has been returned to her. It is also submitted that since the complainant *de facto* does not have any job prospects available in Canada, she cannot go



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there at this stage due to lack of funds. They also request that the anticipatory bail be not granted to the present accused/applicant because rest of his family members are evading process of law. It is also submitted that on 12.02.2026 the complainant *de facto* went to her matrimonial home directly from airport, but she was beaten up by the present accused/applicant.

7. In rebuttal, learned counsel for accused/applicant submits that the accused/applicant also lodged FIR No.206/2026 against the present complainant *de facto*, alleging that she and her mother trespassed into his house at the time he was being interrogated at the police station.

8. To reiterate, since beginning concern of this court was child of the complainant *de facto*, who has been deprived of the soothing comfort of custody of her mother. But since no action has been taken in accordance with law to challenge the said order passed by the Ontario Court of Justice, the present anticipatory bail application cannot be kept pending. However, I find it apposite to again impress upon both sides that custody of child is a matter of welfare of the child and not a matter of rights of the warring spouses. The proper perspective is that it is the child who has right to co-parenting through both parents. Such deprivation, as is being observed in this case, will cause severe dent in the personality of the child, which they have to understand. They also have to understand that at some future stage,



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in such situations the custodial parent is perceived by the child as devil, who kept the child away from non-custodial parent. It is hoped that as regards the child, saner sense would prevail some day.

9. Falling back to the present case, it would be appropriate to take a stock of the recent trend. Earlier, in the case of *Arnesh Kumar vs State of Bihar*, (2014) 8 SCC 273, the Supreme Court analysed the practical circumstances arising out of matrimonial disputes and considering that on exaggerated allegations FIRs were being registered for offences under Section 498A/406 IPC with the sole purpose of armtwisting (*because immediately upon registration of such FIR, not just the husband but his immediate family members and at times, distant relatives would get arrested and would find it extremely difficult to get released on bail*), the Supreme Court held that in such cases arrest shall not be automatic and in routine. After that judicial pronouncement, it is being observed that in an effort to somehow circumvent such laudable judicial pronouncement, in number of such cases allegations of heinous sexual misconduct are levelled against husband and other male members of his family. But at the same time, courts have to be conscious not to generalise the view that in all such cases, the allegations of sexual misconduct are false. The court must examine each case on the basis of its individual factual matrix. Not all cases alleging sexual misconduct in matrimonial FIRs are false and not all cases so alleging are true. With this understanding, I have examined the present case.

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10. To begin with, as regards the requirement for custodial interrogation, as mentioned above, initially the IO stated that despite repeated notices the accused/applicant did not join investigation even during the period he stood protected against arrest. But on being called upon to show any notice to join investigation served on the accused/applicant, he stated that he had issued those notices only verbally. Such an exercise on the part of investigator fails to inspire confidence, to say the least. Not only this, even as regards issuance of the alleged verbal notices, no Case Diary has been produced before me. I find no hesitation to hold that the IO does not need the accused/applicant to join the investigation. As regards the issue of custodial interrogation also, the only purpose mentioned is the recovery of *stridhan*. But for that, custodial interrogation is certainly not a requisite.

11. As regards the allegation of non-return of *stridhan*, it does not fall within the domain of the bail court to get the same recovered. Admittedly, till date no appropriate proceedings in accordance with law have been initiated by complainant *de facto* for recovery of her *stridhan*.

12. Coming to the merits of the allegations, one has to keep in mind that the complainant *de facto* does not belong to uneducated or socially oppressed class. As mentioned above, she is a double graduate and resident of Canada. As alleged by her in the FIR, the alleged offences took place in



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the month of May 2022 or earlier. But the FIR was lodged by her on 29.04.2026. I find no convincing circumstances which can justify such prolonged silence of such victim of such offences. Even as regards the alleged offences, no specific date has been mentioned in the FIR. Further, I have also perused the multiple family photographs annexed as Annexure-M to the present application, which depict the present accused/applicant as well as the complainant *de facto* and her child as a happy family. Of course, I must also add a cautious rider that these aspects have been observed only for the limited purposes of anticipatory bail and the final view shall be taken by the trial court on the basis of evidence adduced.

13. Merely because remaining members of his family are settled in Canada, the accused/applicant cannot be deprived of liberty in a situation of the present nature. The apprehension expressed by prosecution side that the accused/applicant is a flight risk is without any cogent basis. At this stage, it is submitted by learned counsel for complainant *de facto* that wife of the accused/applicant fled the country subsequent to her having assaulted the complainant *de facto*, though that was prior to registration of the present FIR. Even that cannot be a ground to penalise the accused/applicant, who is aged about 80 years.

14. Considering the overall circumstances as described above, I find no reason to deprive the accused/applicant liberty.

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15. The anticipatory bail application is allowed and it is directed that in the event of his arrest, the accused/applicant shall be released on bail, subject to his furnishing a personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the IO/SHO concerned. The accompanying application also stands disposed of.

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**GIRISH KATHPALIA
(JUDGE)**

SEPTEMBER 28, 2026/ry