

**IN THE COURT OF DR.YADVENDER SINGH
ASJ-05, WEST, DELHI**

**Bail Application No. 133/2026
FIR No. 699/2022
PS Rajouri Garden
U/s 308/34 IPC
State Vs. Partik @ Prateek**

12.01.2026

The Undersigned is performing bail duty in pursuance to order No. 1632/35282-35305/Bail Power/Gaz./PDJ West/2025 dated 06.12.2025, partially modified by the Ld. Principal District & Sessions Judge (West), THC, Delhi.

This is an application u/s 482 of BNSS for grant of anticipatory bail, moved on behalf of applicant/accused Partik @ Prateek, pending adjudication.

Present: Ms. Sujata, Ld. Substitute Addl. P.P. for the State.
Ms.Tanya, Sh. Ajay Kumar, Sh. Vipin Kumar Bharti
and Sh. Tejveer, Ld. Counsels for the
applicant/accused.
IO/SI Vikas in person.

On inquiry, Ld. Counsels for the applicant/ accused states at Bar that there is no other anticipatory bail application of the present applicant/accused pending before the Hon'ble High Court of Delhi or the Hon'ble Supreme Court of India.

Reply to the above application has been filed by the IO. Let copy of the same be supplied to the Ld.Counsel for the applicant/accused.

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Arguments heard. Put up for orders at **04:00 PM**.

(Dr. Yadvender Singh)
ASJ-05(W)/THC/Delhi
12.01.2026 (p)

At 04:00 PM :

Matter is taken up again for Orders.

Present : Ms. Sujata, Ld. Substitute Addl. PP for the State.

1. The Court has perused the record carefully.
2. It is argued by the Id. Counsel for the applicant/accused that accused is innocent and has been falsely implicated in the present case. The applicant/accused is 21 years of age and is a student. The investigation of the present case has already been completed and there is no requirement of his custodial interrogation. Both the parties have settled the matter by way of duly executed Memorandum of understanding dated 19.10.2024 and the applicant/accused has already been approached the Hon'ble High Court of Delhi, seeking quashing of the present FIR on the basis of said settlement. It is further submitted that this Hon'ble Court has already quashed the proceedings arising out of the same FIR against co-accused persons Rohit Yadav and Ayush, vide order dated 19.12.2024 passed in WP. (Crl.) No. 3516/2024 titled Rohit Yadav & others v. State (NCT of Delhi) & Anr. It is further

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submitted that the applicant/accused was declared proclaimed offender solely due to non appearance, which was neither intentional nor deliberate. The IO has not issued any written notice u/s 35 of BNSS to the applicant/accused till date. He has clean antecedents and if granted anticipatory bail, he is ready and willing to abide by all the terms & conditions imposed by this Court.

3. Grant of anticipatory bail is opposed by the Id. Addl. P.P. for the State duly assisted by the IO on the ground that the accused is involved in grave and serious offence and if the applicant/accused is granted anticipatory bail, there are chances that he may evade the process of law and threaten the complainant and witnesses.

4. As per reply filed by the IO, name of the applicant/accused is mentioned in the FIR; the applicant/accused did not join the investigation of the case and declared as absconder on 12.04.2023; custodial interrogation of the applicant/accused is required for thoroughly interrogation for recovery of weapon of offence i.e. danda/rod and the result of nature of injury of injured is grievous in nature.

5. Alongwith the present application, the applicant/accused has also annexed the copy of order dated 19.12.2024 passed by the Hon'ble High Court of Delhi in WP. (Crl.) 3516/2024, wherein co-accused persons namely Rohit Yadav and

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Ayush have been discharged in the present case FIR, however, in para no. 18 of the said order, the Hon'ble High Court of Delhi has further clarified by stating that "*it is made clear that this Court has not impeded the learned Trial Court from proceedings further against petitioner no.2*".

6. Accordingly, the applicant/accused cannot take the plea of quashing proceedings arising out the same case against co-accused Rohit Yadav and Ayush by the Hon'ble High Court of Delhi in the aforesaid WP.

7. The Hon'ble Delhi High Court in Ashwani Kumar Vs. State reported in 2023 I AD (Delhi) 338, has observed as under :

"20. Arrest is a part of procedure of the investigation to secure not only the presence of the accused but also to serve other purposes. The grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail.

21. Anticipatory bail is not to be granted as a matter of routine and it has to be granted only when the court is convinced that circumstances exist to resort to that extraordinary remedy. Custodial interrogation is a recognized mode of investigation which is not only permitted but is held to be more effective.

22. Protection would also be detrimental for the purposes of carrying out the investigation of the instant

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case without a free hand to the Investigating officer on certain crucial aspects of the case, including:

a) Ascertaining the role of other key persons involved in the commission of the offence herein, and to determine the modus operandi adopted by the said Accused persons.

b) Ascertaining all known/unknown entities/accounts which have been used in the commission of offences including the parking of the proceeds of crime.

c) Ascertaining the end use of such funds involved in the instant case.

d) Confronting him with the voluminous incriminating material for bringing the investigation to a logical conclusion.

23. Interrogation of an accused, while in custody, is qualitatively different from that undertaken while the accused is enjoying protection under an order of a Court against his arrest. This is a well recognized position in law. It is the right of the investigating agency to conduct a proper and fair investigation. Hon'ble Apex court in the case of CBI vs Anil Sharma [1997 7 SCC 187] held that investigating a person appearing before the Investigating Officer under the protection of the Court order under 438 of the Cr.PC is qualitatively different from the custodial interrogation which would lead to better collection of evidence, thereby ensuring a proper investigation. Custodial interrogation is more elicitation - oriented than questioning an individual/suspect

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ensconced with a protection of Court Order.”

8. Hon'ble Supreme Court in ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr., Special Leave to Appeal (Crl.) No.7188/2022, dated 21.10.2022***, has observed as under: .

"In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail."

9. Keeping in view all the facts & circumstances of this case, the nature & gravity of offence alleged as well as considering the fact that the applicant/accused did not join the investigation of the case and declared as absconder on 12.04.2023; custodial interrogation of the applicant/accused is required for thoroughly

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interrogation for recovery of weapon of offence i.e. danda/rod and the result of nature of injury of injured is grievous in nature this Court is not inclined to grant anticipatory bail to the applicant/accused Partik @ Prateek and hence, the application of the applicant/accused for grant of anticipatory bail is hereby dismissed.

10. However, nothing expressed herein shall tantamount to have any expression of opinion upon the merits of the case.

11. Copy of this order be given dasti to Ld. Counsel for the applicant/accused and IO, as prayed for.

12. The present application is accordingly disposed of.

(Dr. Yadvender Singh)
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12.01.2026 (p)