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

+ **BAIL APPLN. 626/2013**

UMESH TYAGI

..... Petitioner

Through : Ms.Jyoti Singh, Sr.Advocate with
Ms.Rekha Rustagi, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through : Mr.M.N.Dudeja, APP.
Mr.Vikas Pahwa, Sr.Advocate.

AND

+ **BAIL APPLN. 627/2013**

SAJI THOMAS

..... Petitioner

Through : Ms.Jyoti Singh, Sr.Advocate with
Ms.Rekha Rustagi, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through : Mr.M.N.Dudeja, APP.
Mr.Vikas Pahwa, Sr.Advocate.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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28.05.2013

The petitioners seek anticipatory bail under Section 438 Cr.P.C. in case FIR No.472/2012 under Section 408 IPC PS Okhla Industrial Area. I have heard the learned APP, learned Senior Counsel for the petitioners, learned Senior Counsel for the complainant and have examined the record.

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Allegations against the petitioners are that they forged and fabricated vouchers and withdrew cash from the bank account of the company and caused loss to the tune of ₹ 1.86 crores to the complainant. Umesh Tyagi used to withdraw lacs of rupees in cash under the garb to meet expenses. He used to commit fraud by forging vouchers to cover up the illegal withdrawals. Saji Thomas was given full authority to maintain and operate the bank account of the company and he was authorized signatory. He conspired with Umesh Tyagi. Learned Senior Counsel for the petitioners urged that the petitioners have been falsely implicated in the case. Umesh Tyagi was in service as an accountant with the complainant firm M/s. SAV Trans International. The accounts were never manipulated and were regularly audited. No discrepancy was detected at any time by the auditors. Saji Thomas left the firm in October, 2012 and Umesh Tyagi left the job on 02.11.2012. The custodial interrogation of the petitioners is not required as the alleged forged vouchers have already been recovered by the police. Allegations in the FIR are vague. The complainant has given contradictory version as to the exact loss caused to him. The turnover of the company, as per the income tax returns placed on record was hardly to the tune of ₹ 2 crores per year. There was no question of the loss of ₹ 1.86 crores alleged by the complainant. It was falsely claimed by the complainant that no expenses were incurred in loading and unloading. Reliance has been placed on '*Siddharam Satlingappa Mhetre vs. State of Maharashtra & Ors.*', 2011 (1) C.C.Cases (SC) 177.

Learned APP opposed the bail as there are serious allegations against the petitioners. The petitioners forged vouchers to show cash payments by

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the company against the 'loading - unloading and packing - unpacking' charges though the company had no work like this. 93 vouchers were seized for the accounting year 2010-2011, 53 vouchers were seized for the accounting year 2011-2012. The petitioners did not join the investigation. Learned Senior Counsel for the complainant vehemently opposed the bail and stated that the petitioners committed breach of trust and siphoned of ₹ 1.86 crores by forging vouchers, books of accounts and cash books which have been seized by the Investigating Officer. Custodial interrogation of the petitioners is required to identify and recover the other vouchers forged by them. The petitioners mislead the company by creating contra entries of the expenses with receipt of the company. Thus the receipts of the company were reduced by the forged amounts mentioned in the vouchers. These expenses were never incurred as the complainant firm was only a Custom Clearing Agent. Reliance has been placed on '*Maruti Nivrutti Navale vs. State of Maharashtra and Another*', 2012 (9) SCC 235.

Apparently, allegations against the petitioners are serious and grave whereby they allegedly misappropriated ₹ 1.86 crores or so and forged various vouchers to cover up the withdrawal of money from the bank account of the company. Some vouchers have already been seized during the investigation allegedly forged by the petitioners. The complainant earlier lodged complaint dated 06.11.2012 received at PS Okhla on 08.11.2012. Specific allegations were levelled against the petitioners for cheating, financial irregularities and siphoning of the funds. However, no action was taken on the said complaint. Again, the complainant lodged complaint dated 28.11.2012 and reiterated his assertions. The present case was registered on

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the third complaint dated 14.12.2012 only. The version stated by the complainant in all the complaints is almost consistent and there are allegations against the petitioners for committing fraud and siphoning of the money by forging vouchers showing incurring of huge expenses like loading – unloading, packing – unpacking and salaries which were allegedly never incurred by the company. The investigation is at its initial stage. The petitioners have not joined the investigation. The Investigating Officer has obtained non-bailable warrants against the petitioners from the Court of Metropolitan Magistrate. Considering these facts and circumstances of the case, the petitioners are not entitled for anticipatory bail as the alleged conspiracy is to be unearthed and the forged vouchers and documents are required to be recovered. The money allegedly misappropriated is required to be ascertained. The petitioners have given list of alleged disproportionate assets procured with the misappropriated money. The bail applications are dismissed.

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S.P.GARG, J

MAY 28, 2013/tr