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

+ **BAIL APPLN. 1770/2013**

Date of Decision: 21st October, 2013

PARAMJEET Petitioner
Through Mr. Tanveer Ahmad Mir, Advocate

versus

STATE OF NCT OF DELHI Respondent
Through Ms. Asha Tiwari, APP for the State with SI
Ashok Kumar, Crime Branch.

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

J U D G M E N T

: SUNITA GUPTA, J.

1. This is an application under Section 439 of the Code of Criminal Procedure, 1973 filed by the petitioner for grant of bail in case FIR No.152/2013, under Section 419/420/467/468/471/120-B IPC PS Crime Branch.

2. As per the allegations in the FIR, secret information was received in SOS office that Pradeep and Devender were recruiting drivers and conductors on the basis of fake conductors' licence-cum-badge and fake driving licence after charging huge amount. On this information, a raid was conducted. Decoy customers were deputed for being recruited as drivers and conductors. A trap was laid. Pradeep and Devender demanded Rs. 70,000/- for

conductor's post in cluster bus service and Rs.40,000/- were demanded for the driver's post and as per deal, part payment was made to Pradeep as advance money. Devender handed over fake conductor's licence and first aid certificate to the decoy customer and Pradeep handed over the fake driving license to the second decoy customer. On signal from decoy customers, Pradeep and Devender were apprehended and fake documents handed over by them to decoy customers were seized. The numbered notes were also recovered from the possession of Devender and Pradeep. During the course of investigation, the above stated accused Devender disclosed that he got prepared the fake driving license, conductor and first aid certificate from one Amarjeet. Accused Pradeep disclosed that he got prepared driving license from one Chandra. Amarjeet was arrested. Accused Pradeep and Devender also disclosed about the involvement of applicant/accused Paramjeet @ Sanjay Dahiya. They disclosed that accused Paramjeet @ Sanjay Dahiya charged Rs. 36,500/- per recruitment of conductor and that more than 85 conductors were recruited through applicant/accused and as per disclosure statement, about 40 conductors were recruited on fake conductor's license cum badge and first aid certificates.

3. It is further the case of the prosecution that the accused was Assistant Director in M/s Prehari Protection System (P) Ltd. and responsible for the recruitment and verification of conductors and the documents produced by the candidates. The accused and his associates have recruited more than two

thousand conductors.

4. It is submitted by learned counsel for the accused that the accused has been arrested only on the basis of disclosure statement of co-accused, which is inadmissible in evidence. Vide letter of award dated 28th March 2011, M/s Prehari Protection System (P) Ltd. was selected as a successful bidder by Delhi Integrated Multi Modal Transit System Limited (DIMTS) for providing fare collection and related services in operation of private stage carriage buses and the main job of the company was to provide the conductors to the said DIMTS. The applicant is not the Assistant Director but as per the letter of appointment, he is only Assistant Manager. He was never involved in the recruitment of conductors of DIMTS and in fact the applicants applied for the post of conductor on the prescribed format and they were selected as per the requirement of DIMTS. He is in custody since 09th September 2013. Nothing has been recovered from the possession of the applicant. He has been falsely implicated in this case as such he be released on bail. Reliance was placed on *Anil Mahajan vs. Commissioner of Custom*, 2000 (84) DLT 854 wherein the legal position regarding grant of bail was summarised. The main emphasis was placed on c, d and n.

5. The bail application is vehemently opposed by learned Public Prosecutor for the State on the ground that it is a big racket which is recruiting drivers and conductors on the basis of fake document after taking huge amount from the customers. It was submitted that on receipt of secret

information, raid was conducted. Two customers were deputed and trap was laid; co-accused Pradeep and Devender were arrested. During investigation, accused Devender disclosed that he got prepared fake driving licenses, conductor and first aid certificate from one Mr. Amarjeet while accused Pradeep disclosed that he got prepared driving licenses from one Chandra. Amarjeet was arrested. Accused Pradeep and Devender also disclosed about the involvement of applicant Paramjeet @ Sanjay Dahiya. It was submitted that fake conductors' license cum badge, I-card, receipt books and visiting cards have been recovered from applicant Paramjeet which shows his complicity in the crime. Statement of Inder Singh, s/o Ishwar Singh, R/o 4336, Defence Colony, Jind, Haryana and Rajesh Kumar s/o Rajender Singh r/o V.P.O. Hassangarh, District Rohtak, Haryana were recorded under Section 161 Cr.PC wherein they have stated that they were recruited by Paramjeet @ Sanjay Dahiya without having any conductor license/badge and first aid certificate and for this purpose they paid Rs.65,000/- each to Paramjeet and his associates. On interrogation, Paramjeet disclosed that he has so far appointed more than 2000 conductors with the help of Devender and Pradeep and some other associates out of which a number of candidates were appointed on the basis of forged document. The particulars of the conductors working on public transport cluster post are being verified from the concerned transport authorities. The verification report regarding five driving license of drivers appointed by this illegal racket has been received from ARDO

/Kanpur/U.P. which are reportedly found fake. Verification report regarding five First Aid Certificates recovered from accused person has also been received from St. John Ambulance Association, Red cross Bhawan, New Delhi, which was also found fake. Keeping in view, the magnitude and primary stage of investigation coupled with the fact that other associates of this organisation are yet to be identified, it is submitted that if the accused is released on bail at this stage he may influence the witnesses, destroy/tamper the evidence.

6. I have given my considerable thoughts to the respective submissions of learned counsel for the parties. In *Anil Mahajan* (supra), this Court summarised the legal position regarding grant/refusal of bail. Learned counsel for the petitioner laid special emphasis on points c, d and n for submitting that the object of bail is to secure the attendance of the accused at the trial. Bail is not to be withheld as a punishment. Since accused has roots in the society, as such there is no chance of his absconding. Even in case of economic offences, the accused is to be granted bail. Points c, d and n relied upon by learned counsel for the petitioner are reproduced as under:-

“(c) The object of bail is to secure the attendance of the accused at the trial. The principal rule to guide release on bail should be to secure the presence of the applicant to take judgment and serve sentence in the vent of the Court punishing him with imprisonment.

(d) Bail is not to be withheld as a punishment. Even assuming that the accused is prima facie guilty of a grave offence, bail cannot be refused in an indirect process of punishing the

accused person before he is convicted.

(n) For the purpose of granting or refusing bail there is no classification of the offences except the ban under Section 437(1) of the Criminal Procedure Code against grant of bail in the case of offences punishable with death or life imprisonment. Hence there is no statutory support or justification for classifying offences into different categories such as economic offences and for refusing bail on the ground that the offence involved belongs to a particular category. When the Court has been granted discretion in the matter of granting bail and when there is no statute prescribing a special treatment in the case of a particular offence the Court cannot classify the cases and say that in particular classes bail may be granted but not in others. Not only in the case of economic offences but also in the case of other offences the Court will have to consider the larger interest of the public or the State. Hence only the considerations which should normally weigh with the Court in the case of economic offences also. It cannot be said that bail should invariably be refused in cases involving serious economic offences.”

7. However the other parameters laid down in (h), (i), (k) and (l) also cannot be ignored which are reproduced as under:-

“(H) There is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the Courts. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. The answer to the question whether to grant bail or not depends upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstances cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.

(I) While exercising the discretion to grant or refuse bail the Court will have to take into account various consideration like the nature and seriousness of the offence; the circumstances in which the offence was committed; the character of the evidence; the

circumstances which are peculiar to the accused; a reasonable apprehension of witnesses being influenced and evidence being tampered with; the larger interest of the public or the State; the position and status of the accused with reference to the victim and the witness; the likelihood of the accused fleeing from justice; the likelihood of the accused repeating the offence; the history of the case as well as the stage of investigation etc. In view of so many variable factors the considerations which should weigh with the Court cannot be exhaustively set out. However, the two paramount considerations are (i) the likelihood of the accused fleeing from justice, and (ii) the likelihood of the accused tampering with prosecution evidence. These two considerations in fact relate to ensuring a fair trial of the case in a court of justice and hence it is essential that due and proper weight should be bestowed on these two factors.

(K) If investigation has not been completed and if the release of the accused on bail is likely to hamper the investigation, bail can be refused in order to ensure a proper and fair investigation.

(L) If there are sufficient reasons to have a reasonable apprehension that the accused will flee from justice or will tamper with prosecution evidence he can be refused bail in order to ensure a fair trial of the case.”

8. In the light of the principles stated above, the facts and circumstances of the present case have to be considered. It is the case of prosecution that it is an organised racket which is recruiting drivers and conductors on the basis of forged documents. Statement of two witnesses have also been recorded u/s 161 Cr.P.C who have stated that they were recruited by the applicant without having any conductor's licence/badge and first aid certificate and a sum of Rs.65,000/- each was paid to the accused and his associates. The

investigation further reveals that 5 driving licences of drivers and five first aid certificates were also found to be fake. The case is at primary stage of investigation. Larger interest of public is involved. Accused is one of the persons in the entire chain and in case he is released on bail, apprehension of the prosecution that he may influence the witness and may tamper with evidence cannot be ruled out.

9. Under the circumstances, keeping in view the magnitude of the crime and the primary stage of investigation, at this stage, accused is not entitled to be released on bail.

The application is accordingly dismissed.

SUNITA GUPTA, J

OCTOBER 21, 2013

ss/as