

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Order delivered on: 6th April, 2015

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Bail Appln. No.471/2015

MADHUR SHARMA

..... Petitioner

Through Mr.B.S.Billowria, Adv. with
Mr.Vijay Pratap Singh, Adv.

versus

STATE

..... Respondent

Through Mr.M.P.Singh, APP for the State

CORAM:

HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The present application has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in a case FIR No.144/2015 under Sections 420/467/468/471/448/120 B IPC, Police Station Shakarpur, Delhi.
2. The petitioner has already made the statement that he shall join the investigation and shall produce all the requisite documents required by the IO. The interim protection was also granted to the petitioner by order dated 17th March, 2015. I have heard the learned counsel for the petitioner as well as learned APP for the State. The FIR in question was registered on the basis of the complaint filed by Jitendra Kumar, who is one of the Directors of M/s Ambitious

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Constructions Pvt. Ltd. who owns a plot at MB-78-A Master Block, Shakarpur, Delhi.

3. It is pertinent to mention here that admittedly Mr.G.P. Agarwal, who is the husband of one of the Directors i.e. Mrs.Suman Agarwal, is authorized signatory for M/s Ambitious Constructions Pvt. Ltd., filed a complaint No.2850 dated 12th December, 2014 against the petitioner regarding cheating and forgery in connection with the property No. MB-78-A Master Block, Shakarpur, Delhi. On the basis of the complaint a notice for joining the inquiry was issued to the petitioner on 19th December, 2014. The petitioner duly appeared before the inquiry officer.

4. The allegation against the petitioner by the IO is that despite of his assurance that he will produce the document, he did not turn up rather he applied for anticipatory bail before the trial court. Till that time, no FIR was registered against the petitioner. However, suddenly after one week the complainant Mr.G.P. Agarwal, who is constituted attorney of the company M/s Ambitious Constructions Pvt. Ltd., who also happened to be the husband of one of the Directors, filed an application before the SHO, Shakarpur, Delhi, informing that he had given a complaint on behalf of the company on 12th December, 2014 against the petitioner and others vide DD No.3613 duly authorized by the company to pursue the matter. However, the complainant does not wish to pursue the said complaint and it was requested by him that no action should be taken against the petitioner in view of the said complaint. The application was duly signed by the complainant. It appears from the said fact that after withdrawing the

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said complaint, another director Jitendra Kumar filed the complaint on the basis of which FIR was registered. The said factual position has not been denied on behalf of the State. The complaint which was filed by Jitendra Kumar was subsequent to the date already fixed for withdrawal of the complaint on 30th December, 2014. The said aspect is to be decided by the trial court at the time of evidence. It is not denied on behalf of the complainant that Mr.G.P. Agarwal was not authorized to file the complaint on behalf of the complainant which was subsequently withdrawn on 30th December, 2014. Under these circumstances, it is to be considered as to whether the second complaint filed by another director after withdrawing the complaint by Mr.G.P. Agarwal is maintainable or not. In view of such situation and circumstances, the benefit at this stage tilts in favour of the accused. Hence, the prayer made in the application is allowed. It is directed that in the event of his arrest, the petitioner shall be released on bail subject to his furnishing a personal bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the Investigating Officer (IO) and further subject to the following conditions:-

- (a) that he will appear as and when directed by the IO and continue to cooperate in the investigation;
- (b) that he will furnish his present address and contact number to the IO and will not shift from the said address or change the contact number, without prior permission of the IO;

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(c) that he will surrender his passport to the IO and will not leave the country without permission of the Court.

5. In case of violation of any of the conditions above, it will be open to the State to apply for cancellation of the bail.

6. The petition is accordingly disposed of.


(MANMOHAN SINGH)
JUDGE

APRIL 06, 2015