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

Date of Decision: August 31, 2015

+ **BAIL APPLN. 1777/2014**

AJAY KAPOOR Petitioner
Through: Mr. Jai Veer Singh, Advocate

versus

THE STATE Respondent
Through: Mr. Vinod Diwakar, Additional
Public Prosecutor with SI
Shailendra Kumar
Mr. Jaspreet S. Rai, Advocate for
complainant-Ashok Seth

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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In FIR No.91/2012 under Sections 406/420/120-B of IPC registered at P.S. E.O.W. (Crime & Railways), Delhi, petitioner seeks pre-arrest bail while claiming to be innocent.

While entertaining this application, interim protection was granted to petitioner subject to his joining the investigation.

Learned counsel for petitioner submits that petitioner has joined the investigation and that petitioner is not named in the FIR nor there are allegations against petitioner in the charge-sheet filed and so, petitioner deserves the concession of pre-arrest bail. Reliance is placed upon

decisions in *Central Bureau of Investigation, SPE, SIU (X), New Delhi v. Duncans Agro Industries Ltd., Calcutta* (1996) 5 SCC 591, *S.K. Alagh v. State of Uttar Pradesh and Ors.* (2008) 5 SCC 662, *Nikhil Merchant v. Central Bureau of Investigation and Another* (2008) 9 SCC 677, *Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors.* (2011) 1 SCC 694 in support of above submissions.

This application was strongly opposed by learned Additional Public Prosecutor for respondent-State as well learned counsel for complainant, who submits that petitioner alongwith his co-accused has cheated to the tune of ₹12 crores and that the FSL report clearly shows that petitioner had issued the receipts regarding receiving of gold/cash, but is dishonestly evading to repay and so, custodial interrogation of petitioner is necessary to bring out the truth as petitioner has given evasive replies and has not co-operated with the investigation of this case.

It was pointed out that petitioner has failed to produce his income tax returns of the relevant period to repel the allegations against petitioner in the charge-sheet in question. It was submitted on behalf of respondent that the parameters governing pre-arrest bail as reiterated in *Siddharam Satlingappa (supra)* when applied to the facts of the instant case, do not justify the grant of pre-arrest bail to petitioner.

It was submitted that reliance placed upon decision in *S.K. Alagh (supra)* pertaining to the aspect of vicarious liability and *Nikhil Merchant (supra)* relating to compounding of offences and *Duncans Agro Industries Ltd. (supra)* pertaining to quashing of the complaint has no application to the facts of the instant case.

After having heard learned counsel for the parties and on perusal of

the FIR of this case, the status report and the material on record, I find that it cannot be said that petitioner has no role to play in cheating numerous hapless investors to the tune of ₹12 crores and thus, for effective investigation, custodial interrogation of petitioner is necessary. Interim order is hereby vacated.

Consequently, petitioner's application for pre-arrest bail is hereby dismissed while refraining to comment upon merits of this case lest it may prejudice petitioner when he seeks regular bail.

(SUNIL GAUR)
JUDGE

AUGUST 31, 2015

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