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

+ **BAIL APPLN. 591/2015**

AMARTYA DUTTA GUPTA

..... Petitioner

Through

:Ms. Geeta Luthra, Sr. Advocate with
Mr. P.S. Singhal, Mr. Sanjay Abbot
and Mr. Ankit Agarwal, Advs.

versus

STATE

..... Respondent

Through

:Mr. Yogesh Verma, APP for State
with SI Virender Kumar, P.S. Rani
Bagh
Mr. Anil Garg, Adv. for the
complainant with complainant in
person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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06.05.2015

Learned Additional Public Prosecutor, who is assisted by the counsel for complainant, submits that petitioner was Director of M/s. Unit Construction Company Pvt. Ltd. However, he concealed this fact and represented himself as an employee of the said company. He introduced the complainant with other Directors and induced him to supply the building material worth ₹1,93,74,840/-, on different dates. Till December, 2011, only ₹40,00,000/- was paid, leaving behind a balance of ₹1,53,74,840/-. In the

month of January, 2012, another sum of ₹40,00,000/- was paid to the complainant. Complainant was required to supply further material at which he insisted that balance payment be cleared first. Accordingly, company issued six cheques, totalling to ₹1,13,74,841/- drawn on ICICI Bank, Noida Branch. However, same were returned 'dishonoured' on presentation. In nutshell it is alleged that balance amount has not been paid. Instead company has gone in liquidation. It is alleged that petitioner and other Directors of the company have cheated the complainant.

Learned Senior Counsel for the petitioner contends that it is purely a commercial dispute, which has been given a colour of a criminal case. Building material was supplied by the complainant in the normal course of business, inasmuch as company had paid about ₹80,00,000/- to the complainant. She has further contended that another sum of ₹25,00,000/- was paid to the complainant, which has not been disclosed by the complainant in the FIR. She has further contended that complainant had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 but the same was, subsequently, returned to the complainant to be presented in the court having territorial jurisdiction to entertain the same, in view of the judgment of Supreme Court in Dashrath Rupsingh Rathod Vs. State of

Maharashtra and Another, 2014 (9) SCC 129. Only thereafter present FIR has been lodged.

Keeping in mind the totality of circumstances, it is ordered that in case of arrest, petitioner be released on bail subject to his furnishing a personal bond in the sum of ₹25,000/- (Rupees Twenty Five Thousand Only) with one surety in the like amount to the satisfaction of Investigating Officer/Arresting Officer/Station House Officer, Police Station Rani Bagh. However, petitioner shall cooperate in the investigation and appear before the Investigating Officer as and when he is called upon to do so.

Application is disposed of in the above terms. Dasti.

A.K. PATHAK, J.

MAY 06, 2015

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