

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

% *Judgment pronounced on: 2nd June, 2015*

+ **BAIL APPLN. 2500/2014**

SANDEEP DALAL @ RINKU Petitioner
Through Mr.Vishal Gosain, Adv.

versus

THE STATE (NCT OF DELHI) Respondent
Through Mr.M.N.Dudeja, APP for the State
along with SI Manoj.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The petitioner has filed the present petition under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of bail in case FIR No.50/2013, under Sections 365/384/506/171/323/34 IPC, registered at Police Station Kanjhawla, Delhi.
2. The petitioner was arrested on 11th February, 2013.
3. The case of the prosecution is that on 11th February, 2013, complainant Maha Singh s/o Shrilal r/o VPO Birdhana, Distt. Jhajjar, Haryana stated that he received a few calls on his cell phone regarding property dealing and sometime a lady caller claiming to be sectary to Ramesh Tiwari. They showed interest in a plot situated in Rohtak and offered higher rates compared to the market rate. Then one Sandeep called him from Rohini, Delhi for a meeting. On

reaching there, Sandeep showed is preoccupancy and was asked to meet secretary. After meeting her, she told that since boss is out of station, meeting was deferred for the next day. On the next day i.e. 10th February, 2013, when complainant was in Delhi for his business work, they approached him again and directed him to meet near Rithala Metro Station. When complainant was going to meet them, he was intercepted by two persons claiming to be policemen who were in civil dress. They forced him to inhale some sedative and complainant became unconscious. Complainant found himself in a room cordoned by two policemen, one in uniform and other wearing khakhi pant and another elderly looking person. They were being addressed as Ramesh Tiwari, Sandeep and Ajay. Two females were also present there. They told him that they had taken nude photographs of him with females and if he didn't fulfill the demands, they will release the pictures in TV and newspapers and even kill him. Complainant was forced to pay ten lacs which he arranged from his relatives and friends and part delivery was made on 11th February, 2013 near FCI Godown Ghevra and they released the complainant and further demanded two lacs after two hours to be delivered at same place else they will release his nude pictures and would defame him. Complainant approached police of Kanjhawala Police Station and gave his complaint on which the aforesaid FIR was registered and investigation was taken up.

4. During the course of investigation, a trap was laid and accused Sandeep Dalai @Rinku s/o Sh. Rajender Singh r/o House No. A-27, Kunwar Singh Nagar, Nangloi, Delhi. Ajay Dangi @Ajay s/o Azad

Singh r/o House No.39, Extn. 4, Nangloi, Delhi, Ramesh Tiwari s/o Laxmi Narain Tiwari r/o Near Balli Pardhan Ka Makan, Kunwar Singh Nagar, Delhi, of the gang were apprehended from main road near Ghevra FCI Godown when they came to collect the remaining extortion money. Two cars and extorted money of Rs. 6.50 Lacs were recovered from their possession. Other accused Suman Jha @Kajal w/o Luxmeshwar Jha r/o H. no. 295, Gali No. 5, Adhyapak Nagar, Nangloi, Delhi was also arrested and Rs.75000/- was also recovered from her possession. After completion of investigation on 10th April, 2013 case file was sent to court for judicial verdict.

5. The charge sheet has been filed. Charges have been framed. Seven witnesses have been examined and five witnesses are yet to be examined. Learned counsel appearing on behalf of the petitioner submits that there is now no apprehension that the petitioner will influence material witnesses who have already been examined. He is innocent. With regard to his involvement in other matters, he is already on bail although he has been wrongly implicated in two other matters by the police with intent to detain the petitioner in jail. The same have been registered after a period of two years without any corroborating evidence. As he is in jail, the benefit of Section 265-B of Cr.P.C. could not be negotiated in the matter. The petitioner is the permanent resident of Delhi. He belongs to a respectable family and deeply rooted in the society. There is no likelihood of absconding or tampering with the prosecution witnesses.

6. The Supreme Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, (2012) 1 Supreme Court Cases 40 in paras

21, 22, 23, 24, 40, 45, 46 after recording the facts and law has held as under:-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of

former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

24. In the instant case, we have already noticed that the “pointing finger of accusation” against the appellants is “the seriousness of the charge”. The offences alleged are economic offences which have resulted in loss to the State exchequer. Though, they contend that there is a possibility of the appellants tampering with the witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor: the other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Penal Code and the Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the constitutional rights but rather “recalibrating the scales of justice”.

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40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the

court and be in attendance thereon whenever his presence is required.

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45. In *Bihar Fodder Scam (Laloo Prasad v. State of Jharkhand, (2002) 9 SCC 372)* this Court, taking into consideration the seriousness of the charges alleged and the maximum sentence of imprisonment that could be imposed including the fact that the appellants were in jail for a period of more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pretrial prisoners would not serve any purpose.

46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

7. Considering the facts and circumstances of the present case and without expressing any opinion on merit, it is directed that the petitioner shall be released on bail in the above said FIR 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 learned Trial Court and further subject to the following conditions:-

- (i) that the petitioner will furnish to the trial Court his current address and will not shift from the said address without prior permission of the trial Court;
- (ii) that the petitioner will appear on every date to be fixed by the trial Court;
- (iii) that the petitioner will not interfere with the fair progress of the trial and will also not approach the witnesses.
- (iv) that the petitioner will surrender his passport before the learned Trial Court, if any and already not deposited and will not leave India without prior permission of the Court.

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

9. The petition is accordingly disposed of.

10. Copies of this order be given *dasti* under the signatures of Court Master.

(MANMOHAN SINGH)
JUDGE

JUNE 02, 2015