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

Judgment delivered on: 13th August, 2015

+ CRL.M.C. 3075/2015

JAI KISHAN

..... Petitioner

Represented by: Mr. Ravinder Aggarwal
and Mr. Sanjiv Kumar, Advs.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Represented by: Mr. Sudershan Joon, APP
for State with SI Pawan Tomar, PS-Prashant
Vihar.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

+ **CRL.M.C. 3075/2015**

1. Vide the present petition, petitioner seeks directions thereby waiving of the condition of depositing Rs.3,00,000/- imposed by the trial court vide order dated 15.05.2014 while granting bail to him.

2. The allegations against the petitioner are that accused no.2, i.e., son of the petitioner induced the complainant no.2 by representing himself as the agent of DMRC and accused no. 1 (petitioner no.1 herein) who is the father of accused no. 2 represented himself as a partner of accused no. 2. Accused no.2 told the complainant no. 2 that he is an Agent of DMRC and has been authorized by DMRC to install canteens at various Metro Stations, accordingly, had shown

some false/forged documents to the complainant. Both the accused took an amount of Rs.5,50,000/- in cash and one cheque of Rs.4,00,000/- vide no. 237052 drawn on HDFC Bank, Barwala Branch, Delhi on 18.08.2010 at Rohini District Court where the agreement was reduced in writing by accused no. 2 and the complainant no. 3 (in the capacity of 50% partner). However, on the next date, i.e., on 19.08.2010, accused no.2 returned the said cheque to the complainant no. 3 and took an amount of Rs.4,00,000/- in cash. Thereafter, on 28.06.2010, both the accused persons took an amount of Rs.3,85,000/- in cash from complainant nos. 1 and 2. This deal was reduced in writing at Rohini District Courts on 28.06.2010 and both the accused persons presented some forged documents to all the three complainants as invitation for installation of canteens at various Metro Stations and also showed some canteens at various Metro Stations for making up the minds of the complainants as a modus of cheating them. Accordingly, complainants made a complaint and same was culminated into FIR No. 285 dated 31.07.2012 registered at PS-Prashant Vihar for the offences punishable under Sections 406/419/420/120B/34 IPC against the petitioner and his son.

3. The petitioner moved an application for bail, which was granted vide order dated 15.05.2014 subject to the condition, he shall deposit an amount of Rs.3,00,000/- in the Court. However, Counsel for the petitioner sought time from the Court to deposit the said amount. Accordingly, 30 days time was granted to the petitioner to deposit the amount. Thereafter, petitioner challenged the aforesaid order dated 15.05.2014 in Crl. A. No. 06/2014 on the ground that the

condition of Rs.3,00,000/- was harsh. However, same was not accepted by the Additional Sessions Judge, accordingly, the appeal was dismissed vide order dated 14.07.2014. The petitioner again challenged the said order vide Criminal Appeal No.18/15 before the Successor Court of the aforesaid Additional Sessions Judge, however, the same was also dismissed vide order dated 23.06.2015.

4. Being aggrieved, the petitioner approached this Court and filed the present petition.

5. Ld.Counsel appearing on behalf of the petitioner submits that the petitioner is a poor person and he has no means to pay Rs.3,00,000/- as directed by the Trial Court vide the aforesaid order.

6. It is pertinent to note that on 15.05.2014, counsel for the petitioner sought time to deposit the amount and accordingly time was granted. Thereafter, petitioner cleverly challenged the said order twice, however, failed at both the occasions.

7. Though, ld. Counsel for the petitioner submits that petitioner has no means to deposit the amount ordered by the Court, however, ld. Counsel has filed some documents which contains a Jamabandi as per which the petitioner and his family has 33 Bighas and 2 Biswas of land in Village-Katlupur, District-Sonipat, Haryana. Despite, ld. Counsel for the petitioner submits that he is not ready to pay the amount and prayed this Court to waive condition of depositing cost imposed upon the petitioner vide order dated 15.05.2014

8. Keeping in view the facts that the complainants were cheated

by the petitioner and his son for an amount of Rs.13,35,000/-, I am of the opinion that both the accused persons impersonated before the complainants that they have power to install canteens for them on behalf of DMRC and accordingly misappropriated the amount.

9. In view of above, since the petitioner has not complied the terms and conditions imposed by the Trial Court vide dated 15.05.2014, I hereby recall the said order and direct the petitioner to surrender before the Trial Court within two days.

10. In view of above, petition is dismissed.

11. *Dasti.*

Crl. M.A. 10954/2015

Dismissed as infructuous.

SURESH KAIT, J

AUGUST 11, 2015

jg