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

Date of decision: 28.08.2015

+ BAIL APPLN. 1777/2015

YOGESH CHANDRA MAURYA Applicant
Through Mr. M.H. Ansari, Advocate

versus

THE STATE (NCT OF DELHI) Respondent
Through Mr. M.S. Oberoi, APP for the State

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

Crl. MA No. 12549/2015 (Exemption)

1. Exemptions allowed subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 1777/2015

1. The present is an application under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in FIR No. 213/2014 under Sections 420/34 IPC registered at Police Station- Paharganj, Delhi.
2. The case of the prosecution against the applicant is that on 18th October, 2008, there was an annual function held at the School of the complainant in Ajam Garh, U.P. The said annual function was attended by a

large number of Managers of Schools and their Head Masters. The applicant, whose niece happens to be married in the same village, was also invited to attend the said annual function and at that time, the applicant was also visiting his niece and therefore, he also attended the function. The applicant disclosed to the gathering that he was a senior official in the Ministry of Defence and his friends are senior government officials, who would help the Managers of the Schools in arranging the government aid. It is alleged to have been stated by him that Government aid would be provided through an NGO to the extent of Rs. 21 lacs for each of the schools and that every teacher employed in the said schools would get a salary of Rs. 10,000/- per month.

3. The complainant and other Managers of the numerous schools who attended the said annual function were persuaded to come to Delhi in order to realize their expectation of receiving government aid.

4. In the year 2009, the applicant is alleged to have introduced the complainant and 7 other Managers of different Schools to the co-accused Anoop Kumar Meena who was stated to be a close friend of the applicant and working as a Personal Assistant in the Rail Bhawan. At that time, the

applicant along with the co-accused Anoop Kumar Meena assured the complainant that they would visit them at their Hotel on that evening.

5. Later that day, the applicant and Anoop Kumar Meena along with other co-accused namely Suman Satya Narayan; Anwar Khan; and Jamshed Khan were introduced to the complainants as a Professor; an IAS Officer and a Financial Advisor to the Railways respectively. The accused induced the complainants to part with Rs. 5 lacs each on the assurance that the accused would facilitate aid to their respective schools from the central government and a further sum of Rs. 1 lac each would also have to be paid if the government aid as promised was received by the complainant and other schools.

6. Subsequent thereto, the complainant and the Managers of other schools came back to Delhi and allegedly handed over to the accused a sum of Rs. 60 lacs in two installments. Since no government aid as promised was forthcoming, the complainants approached the accused and were issued cheques signed by the co-accused Suman Satya Narayan in the sum of Rs. 50 lacs. Upon presentation of the said cheques to the Bank, the same were dishonoured.

7. Counsel appearing on behalf of the applicant would urge that there are contradictions between the original complaint dated 8th April, 2010 and the subject FIR dated 22nd April, 2014.

8. It is urged that the applicant has been falsely implicated. It is further stated that the said cheque of Rs. 50 lacs was not issued by him but by his co-accused Suman Satya Narayan at the instance of other co-accused Anoop Kumar Meena.

9. It is also urged that the applicant never visited Azamgarh on the date of the incident i.e. 18th October, 2008 and therefore, did not attend the Annual Day Function held at the school of the complainant.

10. It is lastly urged by counsel appearing on behalf of the applicant that he has joined investigation and is cooperating with the Police.

11. On the other hand, Mr. M.S. Oberoi, learned APP would urge that the accused along with his associates induced the complainants to part with a huge sum of money by withholding the real identity of the other co-accused persons. It is forcefully urged that the complainant and other Managers of schools who are poor and innocent villagers have mortgaged their ancestral lands to arrange the amounts embezzled from them by the applicant and the other co-accused.

12. The Sessions Judge by way of an order dated 19th August, 2015 rejected the application for anticipatory bail filed on behalf of the present applicant on the ground that the latter was named in the subject FIR and that there were serious specific allegations against him.

13. In this behalf, it is observed that no ground has been stated in the present application refuting the finding returned by the trial Court.

14. Insofar as the question of joining investigation is concerned, the said assertion made on behalf of the applicant is vehemently refuted on behalf of the State.

15. It is further noticed that the co-accused are absconding and have yet to be arrested.

16. In the decision of the Supreme Court in the case of *State represented by CBI vs. Anil Sharma* reported as *1997 Criminal Law Journal 4417*, the Apex Court made the following observations in paragraph 6 of the report which reads as follows:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also materials which would have been

concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, has such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

17. In view of the allegations levelled against the accused which are serious and specific in nature and the circumstance that he is named in the FIR as the originator of the conspiracy to cheat the poor complainants, I do not find that this is a fit case for grant of an anticipatory bail and the same is hereby dismissed.

SIDDHARTH MRIDUL, J

AUGUST 28, 2015

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