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

+ **BAIL APPLN. 377/2016 and Crl. M.A. No. 2974/2016 (interim bail)**

RAKESH KUMAR

..... Petitioner

Represented by: Mr. Chandra Shekhar and Mr.
Akesh, Advocates.

versus

NCT OF DELHI

..... Respondent

Represented by: Mr. Ashok K. Garg, APP for
the State with SI Karamvir, PS
Narela.
Mr. Prag Chawla and Mr.
Saurabh Tyagi, Advocates for
the complainant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

29.07.2016

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1. By the present petition, the petitioner seeks anticipatory bail in case FIR No. 1328/2015 under Sections 406/420/511/120B IPC registered at PS Narela, Delhi on the complaint of one Ramesh Kumar.

2. The allegations in the FIR by Ramesh Kumar are that the petitioner was running a firm in the name of Ramesh and Sunrise Plastic, with its account with Corporation Bank, Rai Branch Sonpath, Harayana. Rakesh Kumar was 42% shareholder of the firm. Ramesh Kumar and Bijender were shareholders of 25% and Pratap Sharma was of 8%. The partnership was not reduced into writing. With the consent of all the partners, Rakesh Kumar alone was looking after the entire business and the accounts of the firm till 1st January, 2015. In February, 2015 Rakesh Kumar wanted to close

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two factories but soon he changed his mind. In the first week of April, 2015 Rakesh Kumar insisted upon retirement from the firm. Thus by mutual consent Rakesh Kumar sold all his shares for ₹90 lakhs to the three partners and in this regard a MOU was executed on 15th April, 2015. Since the time for payment of amount was till 31st May, 2015 two blank cheques bearing Nos. 083084 and 0803085 duly signed by Ramesh Kumar were given to Rakesh Kumar for payment of rent for the months of March, 2015 and April, 2015. However, Rakesh Kumar made payment of rent by one cheque and in the other cheque, that is, 080384 he filled up the name of his mother and an amount of ₹70 lakhs. When the said cheque was presented, the same got dishonoured and thus a complaint under Section 138 of the Negotiable Instruments Act (in short 'NI Act') was filed. It is also alleged that Rakesh Kumar misappropriated an amount of ₹27.50 lakhs of the firm.

3. As regards cheque of ₹70 lakhs a complaint under Section 138 NI Act by the mother of the petitioner has already been filed after giving due notice wherein the reply of the complainant was that on the basis of MOU these two cheques were given for payment of rent. The petitioner has denied signing the MOU.

4. As regards misappropriation of amount of ₹27.50 is concerned statement of one Dheeraj Kumar has been recorded who stated that on 28th June, 2015 from the firm Ramesh and Sunrise Plastic, Manish son of Ramesh Kumar, Rakesh Kumar partner of firm and Jitender Guliya had come to Gurgaon to collect the payment and on the asking of Manish, Rakesh Kumar was handed over ₹27.50 lakhs.

5. It is thus clear that son of the complainant accompanied the petitioner

when the amount of ₹27.50 lakhs was handed over.

6. Considering, the facts and circumstances of the case I deem it fit to grant anticipatory bail to the petitioner. It is, therefore, directed that in the event of arrest the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the Arresting Officer/SHO concerned, further subject to the condition that he will join the investigation as and when directed by the Investigating Officer. The petitioner will not leave the country without prior permission of the Trial Court.

7. Petition and application are disposed of.

8. Order dasti.

MUKTA GUPTA, J.

JULY 29, 2016

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