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

\+ BAIL APPLN. 988/2014

NAIMUDEEN KHAN

..... Petitioner

Through: Mr. H.S.Gautam, Advocate

versus

STATE

..... Respondent

Through: Mr. Ashish Dutta, APP with SI Babu Lal, PS Jamia Nagar.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

O R D E R

% **27.10.2016**

The further status report has been filed. Along with the said status report, the FSL report has also been enclosed. As per the said FSL report, the expert has opined that the specimen signature of the petitioner and the signature on the agreement in question are signed by the same person i.e. the petitioner. Thus, the status report claims that the petitioner had made the agreement and signed on the agreement in question.

The petitioner has preferred the present bail application under Section 438 Cr.P.C. to seek anticipatory bail apprehending arrest in case FIR No. 276/14 under sections 420/468/471 IPC registered at police station Jamia Nagar. According to the complainant, the allegations against the applicant are that the applicant had introduced himself as an agent of Citibank and IDBI Bank to allure the complainant to pay money for the installation of ATM machine at the vacant shop of the complainant. The applicant/accused explained to the complainant that the installation expense would be Rs. 6 lakhs. As per the status report, the accused/applicant gave two letters to the complainant issued by Citibank and IDBI Bank reflecting the terms and conditions.

Learned counsel for the petitioner submits that the petitioner had not delivered the two letters of Citibank and IDBI Bank reflecting the terms and conditions.

As per the status report and during the course of investigation, the letter attributed to Citibank Bank was found to be fake and had not been issued by the Citibank. Mr. Dutta submits that even in respect of the letter attributed to IDBI Bank, upon verification, the said bank has affirmed that the letter attributed to it, is not genuine. The complainant, it appears, has also produced a CD containing video clipping of conversation between the accused and the complainant regarding installation of ATM machine and recovery of amount given by the complainant.

Vide order dated 07.05.2014, this Court granted anticipatory bail to the petitioner upon his joining and co-operating with the investigation. It appears that thereafter, the petitioner has joined the investigation. There are two other co-accused in the case, namely, Harbert Chatterji and Firoz Khan, who are on the run.

The second status report states that the custodial interrogation of the petitioner is required to trace the co-accused Harbert Chatterji and Firoz Khan and to recover the cheated amount of Rs. 6 lakhs. In the third status report, the investigating officer states that the petitioner is not co-operating in the investigation and intentionally concealing the facts of the case. The custodial interrogation of the petitioner is required to trace the co-accused Harbert Chatterji and Firoz Khan to recover the cheated amount of Rs. 6 lakhs.

The submission of learned counsel for the petitioner is that the FIR in question is a counter blast to an earlier complaint made by the petitioner not only against the complainant in the present case but against other accused. Learned counsel submits that in December 2012, the complainant had made a complaint to the Court. The petitioner claimed that he is a victim at the hands of the complainant and others.

Reference has also been made by the petitioner to the averments made in the bail application particularly in para 6 of the petition which reads as follows:

> "*6. That since petitioner was visiting the office of Harbert Chaterjee to get his money return, the complainants etc. i.e. Jafar Alam, Firoj Alam, Pharhan Ulla Khan and Rakesh Yadav under wrong impression started harassing the petitioner to recover their money from Harbert Chaterji and ultimately on 08.11.12 at about 1.30 p.m. said persons confined the ptitoner in a room and forcibly got singed stamp paper of Rs. 50/- and other blank papers from the petitioner and threatened the petitioner that either petitioner compelled to the said Harbert Chaterjee to return their money or petitioner should return the money taken by the said Harbert Chaterjee immediately, failing which they would finish the petitioner and his family members. The petitioner reported the matter to the local police, higher authorities and commissioner of police on dated 03.12.12.*"

Counsel for the petitioner submits that the petitioner has already joined investigation on several occasions and is ready and willing to co-operate with the investigation.

On the other hand, the submission of learned APP is that though the petitioner has joined the investigation, he is not co-operating. Since the FSL report has now come against the petitioner, it is for the petitioner to explain as to under what circumstances, he had issued the letters on behalf of the Citibank and IDBI Bank. The entire crime has to be unravelled for which custodial interrogation of the petitioner is necessary.

Having heard learned counsel for the parties and perused the record, I am not inclined to continue the protection granted to the petitioner till now. The report now received from the FSL, in my view, has altered the complexion of the case and it is for the petitioner to explain the issuance of the letters on behalf of Citibank and IDBI bank wherein he represented himself as their representative for the purpose of installation of ATM on the premises of the complainant.

For the said purpose, the custodial interrogation of the petitioner, in my view, would be essential. The petition is, accordingly, dismissed.

Dasti.

VIPIN SANGHI, J

OCTOBER 27, 2016
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