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

+ BAIL APPLN. 562/2016 & b Crl.M.B.574/2016

SHIVRAJ PURI

..... Petitioner

Through : Mr. Tanveer Ahmed, Mr. Puneet Mittal and Mr. Dhruv Gupta, Advs.

versus

STATE OF NCT DELHI

..... Respondent

Through : Ms. Neelam Sharma, APP with SI Nitin Kumar, EOW, New Delhi for State.

Mr. Ramesh Gupta, Sr. Adv. with Mr. Manav Gupta, Ms. Esha Dutta, Mr. Sahil Garg, Ms. Ridhi Munjal and Mr. Deboshree Mukherjee, Advs. for complainant.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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21.09.2016

Learned counsel for petitioner submits that petitioner is in custody for more than 2 years. Trial is in progress. Statement of complainant has already been recorded, inasmuch as, he has already been cross examined. He further submits that petitioner and complainant were having business dealings and investments were being made by complainant since the year 2013. All the transactions were done through RTGS. No cash payment was taken. It is further submitted that charge sheet has been filed under Sections 406/420/120-B IPC. Co-accused are already on bail.

Learned additional public prosecutor, who is assisted by learned senior counsel for complainant, has vehemently opposed this application. It is contended that petitioner is prime accused. He is also involved in other cases, inasmuch as, has been convicted in one of those cases. Petitioner has no permanent place of residence. Petitioner along with co-accused had represented that certain case in respect of immovable property of the complainant was pending in Gurgaon Court wherein he was likely to be arrested. By making this false representation, petitioner and co-accused induced the complainant to part with ₹13,15,00,000/- to them, on different occasions. They assured that they would be taking care of the said case at Gurgaon Court so as to ensure that nothing happens to complainant. Petitioner further represented that the said case in Gurgaon Court was transferred to Delhi Court. No such case was filed or pending against the complainant which shows that false representation was made to complainant. It is further submitted that petitioner had executed a Memorandum Of Settlement dated 29th September, 2014 thereby agreed to pay ₹13,15,00,000/- to complainant but has not honoured the settlement. In view of the gravity of offence, petitioner is not entitled to bail, moreso when he has remained unsuccessful upto the Supreme Court. Reliance has also

been placed on Kalyan Chandra Sarkar Vs. Rajesh Ranjan & Anr., (2005) 2 SCC 42, Raj Kumar Maheshwari Vs. Jyoti Gupta & Anr., in SLP. Crl.No.6139/2006 arising from Judgment dated 28th August, 2006 in bail application 1601/2006, Nimmagadda Prasad Vs. CBI, (2013) (4) JCC 2281, Rajesh Ranjan Yadav @ Pappu Yadav Vs. CBI, (2007) 1 SCC 70, Basant N. Singhvi Vs. State, in bail application 1158/2008 and Mukesh Singh & Sampat Mukherjee Vs. State, (2003) 116 CompCas 72 (Delhi).

Learned counsel for the petitioner submits that ₹4,00,00,000/- has already been paid to complainant, pursuant to the settlement; remaining amount could not be paid as petitioner was taken in custody, inasmuch as, had been facing financial difficulties. Learned counsel further submits that SLP was not dismissed on merits but was withdrawn and that too one and half years ago. Petitioner had been in custody only for about six months when SLP was taken up. Now petitioner is in custody for more than 2 years. He cannot be kept in custody till completion of trial, which is likely to take time.

I have perused the judgments relied upon by the learned counsel for complainant and find the same to be in the context of different facts, inasmuch as, in some of the judgments the offence involved was of serious

nature, including under Section 302 IPC.

I have considered the rival contentions of the parties. In this case, petitioner is in custody for over two years. Trial is under way and is likely to take time. Material witnesses have already been examined. Maximum sentence provided under Section 406 IPC is 3 years and under Section 420 IPC is 7 years. Petitioner has already paid ₹4,00,00,000/- to the complainant. Keeping in mind the totality of circumstances, petitioner is admitted to bail upon his furnishing a personal bond in the sum of ₹5,00,000/- (Rupees Five Lakhs Only) with one surety of the like amount to the satisfaction of trial court. Petitioner shall not leave the jurisdiction of National Capital Region, without permission of trial court. He shall also provide his mobile number to the Investigating Officer. Petitioner shall also report to the Investigating Officer once a month, that is, on Second Saturdays at 4:00 pm.

Bail application is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

Dasti.

SEPTEMBER 21, 2016/dk

A.K. PATHAK, J.