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

\+ BAIL APPLN. 542/2016

NITIN SHARMA ..... Petitioner

Through: Mr.Girish Sharma, Advocate

versus

STATE (GOVT OF NCT OF DELHI) ..... Respondent

Through: Mr.Hirein Sharma, APP for the State alongwith sub-Inspector Pankaj Pandey, PS Chanakyapuri, New Delhi.
Complainant alongwith her counsel (appearance not given)

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

O R D E R

% **20.05.2016**

Apprehending his arrest in case FIR No. 53/15 under Section 420/506 IPC this application under Section 438 Cr.P.C has been filed by the petitioner.

Counsel for the petitioner submits that the applicant is a computer engineer and has been serving in IT sector for last 8-9 years. He has roots in the society. The applicant is not involved in this case. Even his name does not find mention in the FIR. The alleged incident appears to have occurred on 04.03.2014 but the FIR has been registered on 05.03.2015 i.e., after a lapse of one year and that too against Harvinder Singh. The dispute is purely of a civil nature. It appears to be a case against accused Harvinder Singh of bouncing of cheque for Rs.45 lacs issued by him. Harvinder Singh has already compromised the matter with the complainant and a settlement was arrived at between them. Harvinder Singh was released on bail. Under the circumstances, it is prayed that in the event of his arrest the Investigating Officer/concerned SHO be directed to release him on bail.

Application is vehemently opposed by learned Public Prosecutor for the State duly assisted by counsel for the complainant. Status report has also been filed wherein it is reported that the case was registered on the complaint of Sh.Parambir Singh. The complainant is into the business of real estate. He had to sell a property of one Mr.D.K.Gupta worth 70-80 crore. He met Harvinder Singh through an acquaintance and Harvinder Singh assured the complainant that he will arrange a buyer for the property. After few days Harvinder Singh told him that there is a company AOL (American Online Limited) based at Bangalore which is interested in buying the property in question. The applicant represented himself as Amit Verma from AOL company and also issued letter of interest in the name of one Karen Dykstr, Financial officer of AOL. They further contacted Mr.D.K.Gupta and asked for Rs.2 crores as commission to be paid to the three employees of the company i.e., Nitin Sharma alias Amit Verma, Vijayan Ayer and Prashant Sharma who all are dummy officials as no such company with the name of AOL exists at the given address. The owner of the property Mr.D.K.Gupta refused to pay the said amount till the deal is finalised by the company for the land in question. Thereupon the aforesaid person came to the complainant and asked for the money to take the deal forward. Initially complainant showed his inability to pay a big amount and promised to arrange 25-50 lacs as commission. Thereafter Rs.50 lacs was paid to them. The accused in furtherance of their conspiracy tried to depict that they have been cheated by AOL company. The accused asked the complainant Sh.Parambir Singh and Mr.D.K.Gupta to come over to Bangalore for meeting with the representatives of the company while no such company existed. At Bangalore Harvinder Singh did not meet the complainant. Complainant contacted Nitin Sharma who assured the complainant not to worry and that everything will be fine. The accused gradually refused to return the money. It is further submitted that during the course of investigation, it was revealed that the accused persons have left their rented office at F-131/2, Mohammad Pur, New Delhi. They closed all their mobile phones. They were evading arrest. On receipt of an information that accused Harvinder Singh is in custody in case FIR No. 324/15 under Section 384/387/389/506/467/468/471/120B/34 IPC PS Nizamuddin he was arrested in this case. He made a disclosure statement that he alongwith Nitin Sharma alias Amit Verma had cheated the complainant in a very clandestine manner. He further disclosed that Nitin Sharma alias Amit Verma was the main conspirator. He had sent the e-mails to the complainant. It was Nitin Sharma alias Amit Verma who prepared the forged LOI on behalf of AOL company. He further disclosed that he is a school drop out and is not well versed with computers and networking while Nitin Sharma alias Amit Verma is well versed about the same. All the documentation has been done by Nitin Sharma alias Amit Verma. The plea of the applicant that he is not mentioned in the FIR is baseless as the record of the aforesaid FIR 324/15 shows that the accused was arrested in that case and had disclosed his name as Sanchil Sharma to the concerned complainant in PS Nizamuddin. On checking the criminal record, it was revealed that he was arrested in case FIR No.324/15 PS Nizamuddin. His photograph was identified by the complainant.

As regards settlement between complainant and the Harvinder Singh, it is submitted that the said compromise is not with applicant Nitin Sharma. According to Harvinder Singh, the applicant has received Rs.25 lacs out of the cheated amount which is yet to recovered. Furthermore, co-accused Vijayan Ayer and Prashant Sharma are at large. The equipments from where the e-mails and letters were prepared are also required to be recovered. It is further submitted that the accused was granted interim relief by this Court with the direction to join investigation upon which he joined investigation twice but refused to divulge any information. Now he is not joining investigation, as such, application is opposed. Counsel for the complainant further submits that the modus operandi of the applicant and his associates is reflected from the fact that despite the fact that Harvinder Singh was ordered to be released on regular bail, however, he is still in jail in some other case. As such, application is opposed.

The allegations as revealed in the status report are very serious in nature. The applicant does not get any benefit from the settlement arrived at between the complainant and Harvinder Singh.

Keeping in view the gravity and seriousness of the allegations, it is not a fit case for grant of anticipatory bail. Moreover, custodial interrogation of the petitioner is also required. That being so, application is dismissed. Interim protection granted to the petitioner vide order dated 18.03.2016 stands vacated.

SUNITA GUPTA, J

MAY 20, 2016
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