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

+ BAIL APPLN. 713/2016

DAHRMENDER DABAS

..... Petitioner

Through: Mr.Jatan Singh, Advocate with
Mr.Mayank Rustagi, Advocate.

versus

STATE

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for the
State with SI Manoj, Ps Kanjhawala.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.04.2016

1. Petitioner Dharmender Dabas has filed this bail application under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0006/2016 under Sections 386/387/506/34 IPC, PS Kanjhawala, Delhi after his prayer for release on anticipatory bail has been declined twice by the learned ASJ on 10.03.2016 and 29.03.2016.

2. Status report has been filed by the State.

3. I have heard Mr.Jatan Singh, Advocate for the petitioner as well as Mr.Kewal Singh Ahuja, learned APP for the State and carefully gone through the record.

4. Mr.Jatan Singh, learned counsel for the petitioner has submitted that it is a case where the petitioner has been falsely implicated at the behest of another NGO named as 'Youth Against Corruption' operating in the same area. The petitioner Dharmender Dabas is Chairman of NGO namely 'Public Against Corruption'. The fact of being targeted by the rival NGO

‘Youth Against Corruption’ and even the fact that the NGO ‘Youth Against Corruption’ is trying to defame the NGO of which the petitioner is Chairman was also brought to the notice of the concerned police station as well as the superior authorities by the petitioner himself by writing various letters.

5. Referring to the contents of FIR, Mr.Jatan Singh, Advocate has submitted that no case of extortion by putting the complainant in fear of death or grievous hurt is made out against the petitioner, hence Section 386 and Section 387 IPC are not attracted in this case. He has further submitted that as per the FIR, the complainant was taken in a white Santro car to their office which is situated in a gali opposite SBI, Kanjhawala whereas the address of the office of NGO ‘Public Against Corruption’ is Plot No.1, Kh.No.30/22/2, Uday Vihar, Kanjhawala, New Delhi. Mr.Jatan Singh, Advocate for the petitioner has referred to the documents placed on record as Annexure-A4 and submitted that this document is sufficient to show at this stage that the petitioner was having a licenced weapon which he had surrendered much prior to the registration of this case. Hence there was no question of showing any weapon to the complainant at the time of alleged offence of extortion.

6. Mr.Jatan Singh, Advocate for the petitioner while referring to the grounds given in the status report for opposing the prayer for grant of anticipatory bail i.e. custodial interrogation of the petitioner is required for recovery of the pistol and amount of ₹2 lacs allegedly extorted from the complainant or about the identification of the petitioner through test identification parade, submitted that the same are not sufficient to deny anticipatory bail to the petitioner for the reason that on the alleged date and

time of the occurrence the petitioner was not present at the spot. Further Annexure-A1 (at pages No.13 and 14) shows that photograph of the petitioner had been appearing on the posters in that area wishing 'Happy New Year'. The poster at page No.14 shows the photograph of the petitioner as Chairman of 'Public Against Corruption' and also of Rajiv as Senior Worker and of Joginder Singh as Social Worker. Mr.Jatan Singh, learned counsel for the petitioner has submitted that when photograph of the petitioner has been publicly displayed, there is no question of getting him identified from the complainant during TIP. During the pendency of the bail application, the petitioner has also filed additional document which is a letter (photocopy) dated 23.02.2016 addressed to Traffic Inspector, Rajouri Garden Circle sent by Mr.Satender, President of NGO 'Youth Against Corruption' complained about the illegal money being charged by the traffic police posted there.

7. Mr.Jatan Singh, Advocate for the petitioner has submitted that the co-accused have already been granted bail in this case and that the petitioner is ready and willing to join the investigation and in view of the facts and circumstances of the case, anticipatory bail may be granted to him.

8. Learned counsel for the petitioner has relied upon ***Dr.Kapil Garg and Shr.Hari Singh Shekhawat vs. State 107 (2003) DLT 228*** wherein it was held that forcing employee to submit his resignation does not amount to extortion.

9. Mr.Kewal Singh Ahuja, learned APP for the State has strongly opposed the prayer of the petitioner for release on anticipatory bail. Learned APP for the State has submitted that during investigation of this case, co-accused Rajesh Kumar was caught and arrested with ₹50,000/- given by

the complainant. In his disclosure statement, he named his associates involved in this case, namely Dharmender Dabas, Satinder, Satvinder, Ankit Rana, Anoop and Rahul Bhardwaj. He disclosed about video recording of the complainant accepting the money and on that basis demand of ₹10 lacs from him out of which he had already paid ₹2 lacs. It has been further submitted by learned APP for the State that as per the disclosure statement made by the co-accused, the amount of ₹2 lacs extorted from the complainant is to be recovered from the petitioner as the same was allegedly given to him. Apart from that, the pistol allegedly used at the time of occurrence is also yet to be recovered, hence application seeking anticipatory bail may be dismissed.

10. The anticipatory bail was declined to the petitioner by the learned ASJ vide its order dated 10.03.016 mainly on the following grounds :-

- (i) The complaints made by Dharmender Dabas to the SHO about the misuse of name of his NGO by the rival NGO came into being after registration of this FIR.
- (ii) Some description of the person who represented himself to be Dharmender Dabas has been given by the complainant.
- (iii) He is required for custodial interrogation as well for test identification parade.
- (iv) Co-accused have been released on regular bail.
- (v) Process under Section 82 Cr.P.C. has already been issued.

11. The second bail application was filed by the petitioner before the learned ASJ on the basis of certain new facts which were not placed for consideration before the Court at the time of dismissal of his application on 10.03.2016. This application was also dismissed by the learned ASJ

observing that all the facts sought to be pleaded in the second application were well within the knowledge of the petitioner at the time of filing the first bail application. Learned ASJ has also observed that surrender of weapon about six months prior to the registration of FIR does not whittle down the seriousness of the allegations against him as the probability of using of weapon belonging to another or unlicensed weapon cannot be ruled out.

12. The contents of FIR No.0006/2016 reveal that the complainant Biswajeet R/o Kanjhawala was working with Directorate Medical, ESIC, Delhi as Care Taker. One Rajesh was also working in the same office as Multi-Tasking Staff. Rajesh used to take friendly loan from him and return the same. In August, 2015 also he took friendly loan of ₹20,000/-. Rajesh introduced the complainant to one Satender who used to supply jar of water in that office and all of them became good friends. Satender used to carry pistol with him to the office. Rajesh returned part of the loan amount through Satender i.e. ₹5000/- in October, 2015 and ₹5000/- in November, 2015 and at that time the complainant was not aware that Satender videographed the payment of money.

13. It is mentioned in the complaint that Satender informed him about his connection with NGO, video recording of the payments of ₹5000/- by him to the complainant and threats extended to get his services terminated as well registration of corruption case. He talked to Rajesh about this act of Satender

14. About the incident dated 17.12.2015, the complainant has stated that on that day Satender and another person Rahul Bhardwaj took his mobile, watch, purse, pen and gave it to his friends. Satender took the complainant by putting pistol on him in a white Santro car to his office situated in a gali

opposite SBI Kanjhawala. Ankit Rana and Sanjay checked him with a metal detector and even his shoes and shocks were removed. Thereafter he was taken inside where on the main seat/boss seat one thin and fair complexion young person was sitting whose name was revealed as Dharmender Dabas. Dharmender Dabas took out his pistol and kept on the table. He inquired about the salary of the complainant and other details about house, car etc. After saying that during his tenure the complainant would earn ₹ 2 crores out of which he should give ₹ 20 lacs which is just 10% of the said amount and which was negotiated and brought down to ₹ 10 lacs on his request. He was given three days time to make the payment. Then Satender and Anoop also came and told that he had to part with the money. Next day Rajesh advised him to give some amount for the time being and remaining amount may be given later and till then he will manage.

15. Thereafter the complainant arranged ₹ 2 lacs by borrowing from his brother and friends and on 22.12.2015, paid ₹ 2 lacs in the said NGO office to Ankit Rana, Rahul, Dharmender Dabas and Sanjay. For remaining payment, he was given time upto 29.12.2015. He also made withdrawal from GPF and on 02.01.2016 he went to Kanjhawala for making payment but had a second thought that he would be subjected to extortion even in future. He also had recording in this regard hence he reported the matter praying for registration of case as well providing security to him and his family as he apprehended threat from the above named persons.

16. In the case of *Siddharam Satlingappa Mhetre vs. State of Maharashtra & Ors. AIR 2011 SC 312*, the Apex Court had laid down the following factors and parameters to be considered while considering the

application for grant of anticipatory bail :

“i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

iii. The possibility of the applicant to flee from justice;

iv. The possibility of the accused's likelihood to repeat similar or the other offences.

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of Sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is

only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

17. The prayer of the petitioner for release on anticipatory bail has to be examined in the light of above principles. In this case, the complainant has specifically named the petitioner to be the person who took out the pistol and placed on the table while making a demand of ₹ 20 lacs from the complainant as the act of making payment of ₹ 5000/- on two occasions had been videographed by Satender.

18. The co-accused have been released on regular bail. The petitioner has been named as a master mind and the head of organisation ‘Public Against Corruption’ in whose office allegedly payment of ₹ 2 lacs has been made on 22.12.2015 by the complainant and prior to that he was taken there on 17.12.2015 when threat was extended to him to pay ₹ 20 lacs which was brought down to ₹ 10 lacs on his request.

19. Taking into consideration the serious nature of the accusations against the petitioner, I do not find it to be a fit case to enlarge the petitioner on anticipatory bail which can be granted only in exceptional circumstances if the Court is prima facie of the opinion that the petitioner has been falsely implicated. Merely because the photograph of the petitioner had been appearing on the posters wishing Happy New Year to the residents is not to be considered by this Court at this stage. As per the statement of the complainant, he had met the petitioner in his office on two occasions i.e. on 17.12.2015 when threat was extended to him to pay ₹ 20 lacs which was reduced to ₹ 10 lacs and secondly on 22.12.2015 when he made payment of ₹ 2 lacs.

20. The petitioner is Chairman of NGO 'Public Against Corruption'. The contents of the FIR indicate that in the garb of controlling corruption, through its associates the NGO was involved in extortion by getting the payments made to certain person video recorded and then making them to pay the money under the threat of video recording being made public and registration of corruption cases against such persons. Such type of conduct requires detailed interrogation of the petitioner.

21. In the given facts and circumstances, I find it to be case where custodial interrogation of the petitioner may be required. Hence, prayer for grant of anticipatory bail is rejected.

22. Bail application is hereby dismissed.

23. The observations made above are only for the purpose of deciding the bail application and shall not be considered as an expression on merits.

PRATIBHA RANI, J.

APRIL 18, 2016

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