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

\+ BAIL APPLN. 785/2016

ANIL GUPTA ..... Petitioner

Through: Mr. T. K. Ganju, Sr. Adv. with Mr. Vipin & Mr. Bharat Gupta, Advs.

versus

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

Through: Ms. Kusum Dhalla, APP for the State. Mr. Shiv Charan Garg, Adv. for the complainant.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

O R D E R

% 30.08.2016

Learned Senior Counsel submits that the present FIR has been registered at Police Station Rajouri Garden under Section 420/34 IPC on the complaint of Mr. Yogesh Mahajan and Gautam Mahajan. Petitioner is in custody for the last eight months. Investigations are complete. The chargesheet has been filed and trial is under way. Complainants and the petitioner are directors of 'M/s Indian Hawks Wealth Creators Pvt. Ltd'. Disputes arose between them, resulting in civil disputes in courts, inasmuch petitioner has filed a petition before the Company Law Board which is also pending. Alleged transactions raise civil disputes. The complainants have alleged that they had floated the Company with the petitioner and invested an amount of ₹5 crores on the false representations of the petitioner that the company would invest money in industrial plots to be allotted by the HSIDC in Manesar as the petitioner was having close relations with the officials of the said Authority. Thereafter, plots so allotted will be sold in the market on a huge premium and the profits would be shared. He further submits that no receipt was produced to show the complainants had paid ₹5 crores to petitioner. He further submits that no such inducement was extended by the petitioner to the complainant. Trial may take time. The petitioner has already been granted bail in another FIR lodged by the same set of complainants, wherein it was alleged that the petitioner had committed fraud and embezzlement of funds with the directors of 'M/s Indian Hawks Wealth Creators Pvt. Ltd.' and had cheated ₹5,78,29,264/- in the name of investment in non-existent, fictitious industrial plots and that when the directors demanded their money back, the petitioner started creating hindrance in their entry to the business premises, by deputing security guards. Learned Senior counsel has placed reliance on a judgment *Rajat Sharma v. State of NCT of Delhi*, 2015 (3) JCC 1493 wherein the benefit of bail was extended to the petitioner in the said case, keeping in mind that the petitioner had remained in custody for 6 months. The relevant paragraph of the judgment reads as under:

> *"In the present case there is no gainsaying the fact that the applicant is charged of an economic offence of some magnitude. However, the fact that the investigating agency has already completed investigation and the chargesheet has already been filed cannot be lost sight of. Furthermore there is no hint or allegation that the accused is a flight risk; nor is there any material to suggest that he will tamper with the evidence. Therefore, in my view, the presence of the applicant in further custody is not necessary. The applicant has already been in custody for more than five months. Consequently, I am of the opinion that the applicant is entitled to grant of bail pending trial on stringent conditions."*

Learned APP, who is assisted by learned counsel for the complainant has opposed grant of bail to the petitioner on the ground that the petitioner has cheated the complainants to the tune of ₹5.78 crores. Complainants agreed to form the company with the petitioner and invest more than ₹5 crores on the inducement extended by the petitioner that huge profits could be made and shared by all of them by selling the industrial pots, which petitioner will get allotted from HSIDC, since he was having good liaison with the official of the said corporation. After the complainants made investment, the petitioner did not take steps in the direction of allotment of plots nor returned their money. It is further contended that during the investigation it has come on record that petitioner was operating 33 accounts wherein total transaction to the tune of Rs.13.6 crores was done. Further that Rs.1.33 crores was deposited in cash in the accounts of the petitioner.

Keeping in mind the totality of circumstances and the facts that the petitioner is in custody for the last eight months, the chargesheet has been filed and the trial is likely to take time, petitioner is admitted to bail subject to his furnishing a personal bond in the sum of ₹1,00,000/- with one surety in the like amount to the satisfaction of the trial court. The petitioner will not leave the country without prior permission of the trial court.

Dasti.

A.K. PATHAK, J

AUGUST 30, 2016
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