

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

+ **BAIL APPLN. 1130/2016**

Date of Decision: May 30th, 2016

GAURAV KAUSHIK Petitioner
Through **Mr.Yashvir Sethi, Adv.**

versus

C.B.I. Respondent
Through **Ms.Rajdipa Behura, SPP for CBI with
Ms.Monica Gupta and Ms.Garima
Singh Yadav, Advs.**

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

P.S.TEJI, J.

1. The present application under Section 438 of the Cr.P.C. has been filed on behalf of the petitioner for the grant of anticipatory bail in FIR No.RC/221/2015/E001-CBI/EO-III, New Delhi, under Sections 120B/420/477A IPC, Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act and Section 66 read with Section 43 of the Information & Technology Act.

2. Arguments advanced by learned counsel for the petitioner, as well as learned Special Public Prosecutor for the CBI were heard at length.

3. The allegations leveled in the present case are that during the period 2011 to 2013, representatives of M/s A.K. & Co., M/s Krishan Kumar Gupta and M/s Star Construction Co. in connivance with

unknown persons and officials of MCD, unauthorisedly accessed the e-tendering system of MCD and deleted the entries of works pending worth Rs.10 crores in respect of said three contractors by misusing the user IDs of officials of MCD without getting proper completion certificates and enabled themselves in getting new works without completing existing works. Investigation revealed that 120 pending works worth of Rs.7,50,42,764/- of the accused persons were deleted illegally during the period 27.01.2012 to 10.02.2014 by the petitioner by using a laptop and Reliance Internet Dongle. It was specifically alleged against the petitioner that he worked in e-tendering system of MCD on contract basis of M/s Nextenders India Pvt. Ltd.

4. Learned counsel for the petitioner has argued that the petitioner has never been involved in any criminal case. The petitioner is having a wife and a son of two years to maintain. From December 2009 to April 2015, the petitioner was working with M/s Next Tenders India Pvt. Ltd., a company which was assigned the responsibility to manage the E-tendering system of MCD. The petitioner was appointed as technical support executive of the said company. The petitioner performed his duties with utmost dedication and sincerity. The e-tendering system of MCD was protected with passwords which were managed by the officials of MCD and the petitioner had no access to the same. The petitioner received a notice from CBI and attended the CBI office for the purpose of investigation where he was threatened and tortured and then he was compelled to give in writing as per the dictates of the IO.

5. On the other hand, learned Special Prosecutor for CBI has

argued that though the petitioner had joined the investigation, he had not cooperated in the investigation. There are serious allegations against the petitioner that he manipulated the computer system of MCD and removed several entries from the e-tendering system with a view to facilitate the contractors due to which favour worth crores were given. It is further argued that the custodial interrogation of the petitioner is required to unearth the whole controversy between the petitioner and his co-accused persons.

6. Perusal of record reveals that the petitioner filed the application for the grant of anticipatory bail before the Court below. The learned Additional Sessions Judge vide order dated 05.04.2016 granted interim protection to the petitioner to cooperate in the investigation. The learned ASJ vide order dated 11.04.2016 dismissed the anticipatory bail of the petitioner.

7. This Court finds that the allegations leveled against the petitioner are serious in nature to the effect that he removed the entries made in the e-tendering system of the MCD and facilitated the contractors without getting completion certificate and enabled them in getting new work without completing the existing works. In the considered view of this Court, to ascertain the role of each person involved, custodial interrogation of the petitioner is required. It has been demonstrated on the record that accused was actively involved in the crime alleged against him. There are so many persons involved in the present case including private persons and MCD officials and if the petitioner is granted anticipatory bail, it may prejudice the investigation conducted by the CBI.

8. In the facts and circumstances mentioned above, this Court does not find it fit to grant the concession of anticipatory bail to the petitioner. The application is accordingly dismissed.

(P.S.TEJI)
JUDGE

MAY 30, 2016
dd

