

\$~3

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

+ **BAIL APPLN. 1086/2016**

NISHA BHARDWAJ

..... Petitioner

Represented by: Mr. Rajiv Mohan with Mr.
Abhumanyu Kampani and Mr. Swapul Krishna,
Advocates.

versus

THE STATE OF NCT OF DELHI

..... Respondent

Represented by: Mr. Kewal Singh Ahuja, APP for
State along with SI Rakesh Dhyani, HC Ramesh
Kumar, PS Vikas Puri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

01.08.2016

%

By this petition, the petitioner seeks anticipatory bail in case FIR No. 790/2015 registered at PS Vikaspuri under Section 406 IPC, wherein the allegations are against the brother of the petitioner i.e. Ashish Bhardwaj. In the FIR it is alleged that Ashish Bhardwaj joined the business of Manesh Kumar as an employee. On 25th August, 2015 at about 8.00 PM Manesh Kumar gave two gold biscuits weighing 1 kg 20 gms to Ashish Bhardwaj, however on the night intervening 25th and 26th August, 2015 at about 1.45 AM, Ashish Bhardwaj called up Manesh Kumar informing him that the gold

BAIL APPLN. 1086/2016

page 1 of 3

biscuits have been misplaced from the dickey of scooter. On reaching the spot, Manesh Kumar found that there were no marks on the dickey of the scooter of Ashish Bhardwaj and the lock was also intact. However, Ashish Bhardwaj ran away from the spot and absconded.

Since Ashish Bhardwaj was not available he was declared a proclaimed offender. On 17th April, 2016, Ashish Bhardwaj was arrested and at his instance 71 gram of gold piece having mark of 0 g of the complainant was recovered from a almirah in the house. Remaining gold about 950 grams was yet to be recovered.

Learned APP referring to the status report submits that as per the disclosure of Ashish Bhardwaj rest of the gold was kept by the petitioner. When petitioner was to be arrested she fled away from the spot through back door.

It is admitted by the Investigating Officer who is present in Court that after 71 grams of gold piece was recovered from the almirah in the house, no further search of the house was conducted. Even if the petitioner would have been arrested, no recovery of gold was to be done from her person as it is not the case that the petitioner carried away the gold with her. One fails to understand whether the purpose for which raid was conducted was solely to arrest an unmarried young girl or recovery of remaining gold.

Without commenting whether the gold biscuit handed over could be of an odd weight like 71 gms, in view of the failure of the investigating officer to search the house, the petitioner not being the owner of house or in exclusive possession of the property where gold was allegedly kept, I find it

to be a fit case to grant anticipatory bail to the petitioner. It is directed that in the event of arrest, the petitioner be released on bail on her furnishing a personal bond in the sum of ₹ 25,000/- with one surety in the like amount to the satisfaction of the Arresting Officer/ SHO concerned of the Police Station, subject to the conditions that she will join the investigation as and when directed and will not leave the country without prior permission of the Court concerned.

The present petition is disposed of. Order dasti.

MUKTA GUPTA, J.

**AUGUST 01, 2016
'n'**