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

\+ BAIL APPLN. 1184/2016

SUMIT

..... Petitioner

Through: Mr. R.P. Srivastava and Mr. S.K. Singh, Advocates

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Radhika Kolluru, APP with SI Sharvan Kumar, PS Sultan Puri

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

O R D E R

% **26.08.2016**

The status report has been filed by the State and the same has been perused.

The petitioner has preferred the present second bail application under Section 438 Cr PC to seek anticipatory bail apprehending arrest in case FIR No.999/2015 under section 408 IPC registered at PS Sultan Puri. The case has been registered on the complaint of the complainant Ram Prasad Yadav. In his complaint, the complainant stated that he was running Eco Counter of SBI as well as Aadhar Card Center. The petitioner Sumit has been working with him in his office. The petitioner was entrusted the job of cash collection and to deposit the cash in bank. As per the complainant, on

13.10.2015 at about 1:00 p.m., the petitioner went to the bank to deposit Rs.7.75 lacs at SBI Sultan Puri, Delhi. One other employee, namely, Sheelash Yadav also went to the bank with Rs.5 lacs to deposit the amount. Sheelash gave Rs.5 lacs cash to the petitioner at SBI Sultan Puri to deposit the amount. Sumit took Rs.2.75 lacs from 7.75 lacs with him and added the same in Rs.5 lacs given to him and deposited Rs.7.75 lacs in the bank. According to the complainant, the petitioner fled with Rs.5 lacs and the incident was captured in CCTV footage of the bank.

The status report discloses that during investigation PW-Sheelash was interrogated and as per his statement, Rs.7.75 lacs and deposit voucher were given to the petitioner by Neha in his presence in a bag. At the same time, the petitioner left the office on motorcycle for SBI Sultan Puri. After ten minutes, he also went to bank to deposit Rs.5 lacs after taking the amount from Neha. Sumit was standing in a queue in the bank to deposit the amount. As the queue was very long, he gave Rs.5 lacs and voucher to Sumit. He counted the bundles to Sumit and ensured him that the amount given to him was Rs.5 lacs. The status report states that PW-Neha has also ratified the version of Sheelash.

As per the status report, CCTV footage from the office of the complainant shows that PW-Neha counted Rs.7.75 lacs and put the same in a bag in the room. She went to the adjoining room and handed over the bag to the petitioner in the presence of Sheelash. At the same time, the petitioner left the office with the bag on motorcycle. CCTV footage of SBI has also been scrutinised and as per the same Sheelash handed over Rs.5 lacs to the petitioner.

The submission of counsel for the petitioner is that the CCTV footage of the complainant has not been scrutinised. According to the petitioner, he returned to the office after depositing Rs.7.75 lacs and returned the amount of Rs.25,000/- to Ravi. According to the petitioner, the said aspect has been covered in the CCTV footage in the office, but the same has been suppressed.

The status report states that the petitioner is evading investigation and his non bailable warrants have been obtained. The petitioner was granted interim protection vide order dated 02.06.2016. The petitioner was interrogated on 13.07.2016. The petitioner then claimed that the cash handed over to him by Neha was only Rs.3 lacs. Thus, he added Rs.5 lacs received from Sheelash and deposited Rs.7.75 lacs and took back Rs.25,000/- from the cashier at the bank. He claimed that he had informed the complainant that the amount in the bag was less. He also claimed that he had received a call from the complainant when he was in the queue and the complainant had asked whether the cash had been deposited or not, and that he had informed the complainant that the cash was less.

The status report disputes the version of the petitioner inasmuch, as, PW-Ravi has denied the return of any money to him on 13.10.2015. As per the CDR of complainant, he did not receive any call from the petitioner with regard to the alleged deficient amount with the petitioner. In fact, he made a call to the petitioner on 13:16 hours and after that the petitioner called the complainant at 13:19 hours.

The status report also relies upon the CCTV footage of the SBI. The submission of APP is that even before opening the bag, the petitioner took Rs.5 lacs from Sheelash and placed the same on the table of cashier.

Thereafter, he took the money from the bag that he was carrying. Before this, he had already taken back the voucher of Rs.5 lacs given by Sheelash. There was no way that the petitioner could have known that the bag he was carrying did not contain Rs.7.75 lacs and that it contained only Rs.3 lacs. The sequence in which the entire process was carried out while receiving money amounting to Rs.5 lacs from Sheelash; it was handed over to the cashier at the SBI along with both the vouchers; the voucher for Rs.5 lacs was returned, and it is accepted by the petitioner and; the petitioner then gave some money from his bag, prima facie, shows the involvement of the petitioner.

It does not appear from the status report – which relies upon the CCTV footage of the bank, as well as the call detail records of the petitioner and the complainant, that the story of the petitioner is consistent therewith. Having heard counsel for the parties, in my view, the custodial interrogation of the petitioner is necessary to unearth the crime. It is, therefore, necessary to take the petitioner into custody to interrogate him and confront him with the said evidence. Accordingly, the present petition is dismissed. The petitioner is directed to forthwith surrender before the I.O.

Any observations made in this order have been made only for the purpose of the consideration of this application and shall have no bearing on the trial.

VIPIN SANGHI, J

AUGUST 26, 2016
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