

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : September 01, 2016

+ BAIL APPLN. 1388/2016
RAVI KANT PRABHAKAR Petitioner

Through: Mr. Ankit Jain, Advocate

versus

STATE GOVT OF NCT OF DELHI Respondent

Through: Mr. G.M. Farooqui, Additional Public
Prosecutor for the State with Sub-
Inspector Bhagat Singh, Police Station
Ashok Vihar, Delhi

CORAM:

HON'BLE MR. JUSTICE P.S. TEJI

JUDGMENT

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P.S. TEJI, J.

1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.) the petitioner seeks bail in FIR No.0184/2015 under Section 120-B/419/420/465/467/468/469/470/471/474 of IPC, at Police Station Ashok Vihar, Delhi.

2. The present case is registered on the complaint of Mr. Sanjay Goyal, who is a director of M/s. Apni Rasaoi Pvt. Ltd., which has various branches and franchisee at different places in Delhi. The company entered into a contract with Ms. Anuradha Prabhakar, of M/s. Amazing Interiors. The petitioner is a professional in Hotel management having expertise in the field of Hotels, Restaurants, and catering businesses and has also worked with International Food

Chains like Baskin Robins, Dominos etc.

3. The complainant sought the expert advice of the petitioner in upgrading his food outlet at Vijay Nagar. Complainant promised the petitioner to induct him as a partner/Director of the company and for giving 25% shares. Complainant also asked the petitioner to invest some amounts in his company and accordingly the petitioner invested Rs.68 lacs, which was assured to be returned by the complainant by November 2012. Certain disputes arose between the petitioner and the complainant in the later part of year 2012 and in order to pressurize the petitioner false and frivolous complaints were filed against the petitioner.

4. The complainant got shocked and stunned when it came to his knowledge that discount coupons of Add India Advertising were existing in market for worth Rs.7500/- and the same were sold only for Rs.499/- by Add India Advertising. It is alleged that the said company had sold 350 such discount coupons. The complainant had told to the general public that he had not entered into any kind of deal or agreement with Add India Advertising and the same has been fraudulently sold by the said company.

5. Investigation started and during investigation D.V. Bhardwaj produced a MOU reported to be executed between the petitioner and him regarding printing of coupons of Apni Rasoi. On 11.06.2016, the petitioner was interrogated and arrested in the case. He filed a bail application before the DMM, Rohini, which was rejected vide order

dated 13.06.2016. Thereafter, the petitioner filed another bail application before the learned Special Judge (NDPS), North-West, learned Additional Sessions Judge, Rohini, which was also rejected vide order dated 08.07.2016.

6. Learned counsel for the petitioner contended on behalf of the petitioner that the petitioner himself had invested Rs.68 lacs in the company of the complainant and the petitioner was assured that the said amount would be returned with interest/profit by November 2012. However, the intentions of the complainant became dishonest, which led to certain disputes between them. After investigating upon the complaints of the complainant the Investigating Officer filed a status report stating therein that it was purely a business transactional dispute between the parties and no cognizable offence is made out. It is further contended on behalf of the petitioner that the petitioner had also lodged a complaint on 18.03.2013 regarding his investment of Rs.68 lacs, but when no action was taken by the police authorities, the petitioner filed an application under Section 156(3) of Cr. P.C., which is pending adjudication before the concerned Court.

7. Learned counsel for the petitioner further contended that for the recovery of Rs.68 lacs, the petitioner had also instituted a suit being Suit No.382/2015 which is also pending disposal before the Rohini Court. It is further contended that the petitioner had also joined the investigation and cooperated with the Investigating Officer in all respects. Still the petitioner was arrested on 11.06.2016 and the bail

application filed by the petitioner has been dismissed by the learned Metropolitan Magistrate as well as the learned Additional Sessions Judge.

8. Learned counsel for the petitioner contended that the contents of the FIR do not even satisfy the essential ingredients of the provisions invoked against the petitioner. It is further contended that the petitioner had placed on record the email dated 12.04.2012 sent by the complainant to the petitioner thereby authorizing him to sign and accept all kinds of marketing agreements for Apni Rasoi Pvt. Ltd. It is further contended on behalf of the petitioner that the entire evidence in the matter is documentary, therefore, no custodial investigation is required to be conducted. Lastly, it is contended that the petitioner is the only male member of the family, has his ailing wife to take care of and a four years child. Additionally, he has also to look after his sister and her two minor children. More so, the antecedents of the petitioner are clear and there is no possibility for the petitioner to flee from jurisdiction of this Hon'ble Court. In support of his contentions, the learned counsel for the petitioner relied upon judgments in ***Sanjay Chandra vs. CBI (2012) 1 SCC 40*** in which it is held that *the Courts owe more than verbal respect to the principle that punishment begins after conviction and that every man is deemed to be innocent until duly tried and duly found guilty.*

9. Learned Additional Public Prosecutor appeared on behalf of the State and opposed the prayer of granting bail to the petitioner while

stating that during the interrogation, the petitioner himself has disclosed that “as Sanjay Goel was not friendly with computer and I usually use his E mail ID to send and read emails received there. I suffered a loss because of Sanjay Goyal. So I thought about the coupon scheme to do the same to him. I started looking for an advertisement agency with cooperation thereof I could succeed in my plan. Then I contacted Mr. D.V. Bhardwaj who was working for Add India Advertisement Company. I offered him to print some advertisement coupons in which we can offer our customers discount of 50% on several food items like Thali etc. As customer will get benefit of 50% discount on the 2nd order (Thali) on purchase of one thali. This way I prepared a MOU with D.V.Bhardwaj of Add India. In this retail, all the details were mention that they will print 5000 privilege card and one card will cost Rs.499 rupees for the customer and Add India will sell 5000 coupons and the coupons sale money will be kept by Add India as their advertisement fee. I told D.V. Bhardwaj that I am authorized signatory of APNI RASOI and do everything on behalf of the company. My plan was to distribute the aforesaid coupons in public as soon as possible so that if all coupons will be used by Customers (as they will get food of Rs.7500/- on one coupon) then Apni Rasoi will be in a loss of huge sum of Rs.3,75,00,000. Apart from the agreement, I had a deal with D.V. Bhardwaj that from the sale of each coupon he will give me my commission of Rs.200/- as I was giving him such a good deal. D.V. Bhardwaj agreed with my offer. From this deal I was to get a benefit of Rs.10,00,000/- from D.V.

Bhardwaj. Both of my motives were get achieved. On one hand Apni Rasoi will be in loss and on the other hand I was getting a good profit.”

10. Learned Additional Public Prosecutor for the State further submitted that the charge sheet is yet to be completed as the specimen signatures of the petitioner are yet to be obtained. More so, the other co-accused D.V. Bhardwaj is yet to be arrested in this case, and the petitioner has committed an offence of cheating and forgery with the complainant causing loss of considerable amount, therefore the petitioner ought not be granted bail in the present case.

11. I have heard the contentions raised by learned counsel for the petitioner as well as learned counsel for the respondent No.1 and also gone through the impugned order passed by learned Additional Sessions Judge.

12. The admitted facts of the case are that the charge sheet has not been filed, meaning thereby the investigation is yet to be completed, more so, the main accused is not arrested so far. So far as the contentions raised by the petitioner, i.e., whether the petitioner is innocent, or he has been falsely implicated in the case, or has invested any amount in the company of the complainant, or he has cheated the complainant with Rs.26 lacs, all these facts can be adjudicated and tried during trial while leading cogent evidence. The judgment of *Sanjay Chandra (supra)* relied upon by the petitioner is distinguishable on facts and in criminal jurisprudence each case has to

be adjudged on its peculiar facts and circumstances.

13. In view of the fact that the main accused - D.V. Bhardwaj is yet to be arrested; charge sheet is yet to be filed, investigation is pending, and considerable amount of cheating is involved in this case, and the possibility of petitioner tampering with the witnesses or absconding cannot be completely ruled out. Therefore, this Court is not inclined to grant bail to the petitioner – Ravi Kant Prabhakar, at this stage.

14. Resultantly, the facts emerging from the record culminate into dismissal of the present bail application. Accordingly, the present bail application filed by the petitioner is dismissed at this stage.

15. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for cancellation of bail made by the petitioners. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

16. In view of the aforesaid directions, the present petition filed by the petitioner is disposed of.

(P.S.TEJI)
JUDGE

SEPTEMBER 01, 2016
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