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

+ **BAIL APPLN. 1547/2016**

D N SHUKLA

..... Petitioner

Represented by: **Mr. Dinesh Chander Yadav and
Mr. A.S. Rishi, Advocates.**

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Represented by: **Mr. Kewal Singh Ahuja, APP
for the State with SI Shiv
Kumar, PS Naraina.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

07.09.2016

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1. By the present petition the petitioner seeks anticipatory bail in case FIR No. 81/2016 under Sections 420/34 IPC registered at PS Naraina, Delhi.
2. The allegations by the complainant in the FIR are that the complainant met the son of the petitioner Vipin Shukla at his office through his friend Mohit Nagpal where Vipin Shukla represented that he was dealing in gold trading and could provide gold at ₹500/- cheaper than the market rate. Initially the complainant did not accept the offer but on the persuasion and assurance of the petitioner and brother of Vipin Shukla he paid ₹32.5 lakhs to Vipin Shukla for purchasing of the gold out of which ₹5 lakhs were transferred through RTGS in the account of M/s Shri Krishna Trading Co. which is the proprietorship concern of Nitin Kumar and rest of the money was paid in cash for which receipts were duly issued by Vipin Shukla. It is

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alleged that Vipin Shukla failed to supply the gold and thus cheated the complainant for a sum of ₹32.5 lakhs. The role assigned to the petitioner is that after the complainant did not accept the offer of Vipin Shukla the petitioner also persuaded and assured him. No money was handed over to the petitioner. Nitesh Shukla, the other son of the petitioner has been granted regular bail. Vipin Shukla is in judicial custody.

3. This Court vide order dated 2nd August, 2016 issued notice in the present petition and directed that no coercive action be taken till today, subject to the petitioner joining the investigation as and when directed by the Investigating Officer. As per the status report only one notice was served on the petitioner on 25th August, 2016 and the petitioner did not join the investigation. On a query raised to the Investigating Officer he states that the notice was for appearance on 25th August, 2016 and on the same day notice was served to the petitioner. It is not clarified as to what time the notice was served so that the same was sufficient for the petitioner to visit the Investigating Officer.

4. Learned counsel for the petitioner submits that the petitioner along with the dasti order appeared before the SHO and repeatedly went to the police station however, he was not made to join the investigation. Thereafter when the notice was received on 25th August, 2016 he went to the police station on 26th August, 2016 when he was informed that the Investigating Officer was on leave for four days. The petitioner called up the Investigating Officer on 6th September, 2016 whereafter both of them met.

5. This Court had granted interim protection to the petitioner on 2nd

August, 2016 however, till 25th August, 2016 the Investigating Officer issued no notice to the petitioner to join the investigation and only notice was issued on 25th August, 2016 to join on the same day when the Investigating Officer was fully aware that he was proceeding on leave for the next four days.

6. Considering the fact that the Investigating Officer is not serious in joining of the petitioner in investigation and also the fact that the only role assigned to the petitioner is that along with his other son Nitesh Shukla persuaded and assured the complainant and the main accused Vipin Shukla has already been arrested and undergone custodial interrogation, I deem it fit to grant anticipatory bail to the petitioner. It is, therefore, directed that in the event of arrest the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the Arresting Officer/SHO concerned, further subject to the condition that he will join the investigation as and when directed by the Investigating Officer and will not leave the country without prior permission of the Court concerned.

7. Petition is disposed of.

8. Order dasti.

MUKTA GUPTA, J.

SEPTEMBER 07, 2016
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