

\$~16, 17, 25 &26

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

+ BAIL APPLN. 2236/2016

SUMIT ARORA

..... Petitioner

Through : Mr.Vikas Pahwa, Sr.Advocate, with
Mr.Neeraj Chaudhary, Ms.Saakshi
Agrawal and Mr.A.Dey, Advocates.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through : Ms.Manjeet Arya, APP.
Insp.Vijai Pal Singh.

+ CRL.M.C. 4072/2016 & CrI.M.A.17021/2016

SUMIT ARORA

..... Petitioner

Through : Mr.Vikas Pahwa, Sr.Advocate, with
Mr.Neeraj Chaudhary, Ms.Saakshi
Agrawal and Mr.A.Dey, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through : Mr.Kamal Kr.Ghei, APP.
Insp.Vijay Pal Singh.

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+ BAIL APPLN. 2234/2016

ASHISH ARORA

..... Petitioner

Through : Mr.Vikas Pahwa, Sr.Advocate, with
Mr.Neeraj Chaudhary, Ms.Saakshi
Agrawal and Mr.A.Dey, Advocates.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through : Ms.Meenakshi Dahiya, APP.
Insp.Vijai Pal Singh.

+ CRL.M.C. 4077/2016 & CrI.M.A.17013/2016

ASHISH ARORA

..... Petitioner

Through : Mr.Vikas Pahwa, Sr.Advocate, with
Mr.Neeraj Chaudhary, Ms.Saakshi
Agrawal and Mr.A.Dey, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through : Mr.Kamal Kr.Ghei, APP.
Insp.Vijai Pal Singh.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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21.12.2016

1. Aggrieved by orders dated 29.01.2016, 29.03.2016, 30.06.2016
and 20.10.2016 of learned CMM (Central) in case FIR No.164/2012

BAIL APPLN. 2236/2016 & connected matters

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registered at Police Station EOW whereby the petitioners Sumit Arora and Ashish Arora were declared proclaimed offenders, they have filed in the instant petition for quashing as well as seeking anticipatory bail. The petitions are contested by the respondents.

2. I have heard the learned counsel for the parties and have examined the file. Undisputedly, the petitioners are wanted for interrogation/investigation in case FIR No.164/2012 registered at Police Station EOW. Charge-sheet qua other accused persons has since been filed. Allegedly, the petitioners were not traceable and were absconding; they could not be arrested and consequently declared 'proclaimed offenders'

3. Admittedly, the petitioners were accused in case FIR No.956/12 registered at Police Station Kollam (East) for committing similar offence lodged by the same complainant. It has come on record that the petitioners remained in judicial custody in the said proceedings for more than one year. They were granted statutory bail in the said FIR. However, they could not avail the benefit as they were unable to arrange a local surety. Consequently, they remained in custody from 22.6.2012 to 24.9.2013. It has further come on record that the petitioners had also filed SLP 15770-71/2016 before Hon'ble Supreme Court of India for clubbing all cases pending in the State of Kerala. By order dated 12.08.2016, the petitioners were given liberty to approach Kerala High Court for seeking transfer of all the cases to one district. It has also been informed that the petitioners were

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wanted in various other cases in Punjab and they remained in custody in the said cases. Subsequently, they were released on bail. Orders to that effect have been placed on record. The petitioners were granted regular bail in FIR No.8/2012 registered under Sections 420/120-B/201/419/465/467/4688/471/474 IPC and 65/66-C Information and Technology Act by learned Chief Judicial Magistrate, Mohali on 2.3.2013 where they had remained in custody for more than four months. The petitioners have placed on record the order dated 10.10.2014 (page 57), 22.10.2014 (page 59), 5.11.2014 (Page 61), 21.1.2016 (page 63), 11.4.2016 (page 65) to show that they were regularly appearing before the said court at Mohali.

4. It appears that no sincere efforts were made by the Investigating Officer for so long to require the presence of the petitioners for investigation of the instant FIR in which they were not named. Their involvement emerged only in the disclosure statement of co-accused Sumit Gupta recorded on 14.11.2014. No plausible explanation has been offered as to why the concerned courts were not approached for seeking petitioners' presence when they were in judicial custody. The Investigating Officer did not approach the courts where the petitioners were regularly appearing in trial. The petitioners had no sound reasons to abscond when they were regularly appearing in various criminal cases and pursuing their legal remedies even before the Hon'ble Supreme Court.

5. Besides above, the alleged loss caused to the complainant is to

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the tune of ₹3,64,000/-. Learned Senior counsel appearing for the petitioners has offered to pay this amount to the complainant without prejudice.

6. Considering the facts and circumstances of the case, the impugned orders whereby the petitioners have been declared proclaimed offenders cannot be sustained and are set aside.

7. Considering the petitioners' offer to pay ₹3,64,000/- to the complainant and the fact that charge-sheet has already been filed qua other accused persons and the involvement of the present petitioners emerged only in the disclosure statement of one of the accused, they are admitted to anticipatory bail and in the event of their arrest, they be released on bail on their furnishing personal bond in the sum of ₹50,000/-each with one surety in the like amount to the satisfaction of the SHO/Investigating Officer with the condition that they shall join the investigation as and when required. The petitioners shall pay ₹3,64,000/- to the complainant/R-2 within two weeks. This payment shall be without prejudice and subject to future adjustment (if any).

(4) The bail applications and petitions stand disposed of in the above terms. All pending applications also stand disposed of.

DECEMBER 21, 2016/sa


S.P. GARG, J.