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

Judgment reserved on: 01.08.2016
% **Judgment delivered on: 03.08.2016**

\+ **BAIL APPLN. 2702/2015**

TANISHA RANI SHARMA ..... Applicant

Through: Mr. Ravi Sikri, Senior Advocate along with Mr. Deepak Yadav, Advocate.

versus

STATE (THE NCT OF DELHI) ..... Respondent

Through: Mr. Rajat Katyal, APP along with SI Rakesh, for the State.

Mr. Gurmehar Singh Sistani & Mr.Ritesh Kumar Vasdev, Advocates for and along with the complainant in person.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

J U D G M E N T

VIPIN SANGHI, J.

1. The applicant has preferred the present bail application u/s 438 Cr PC apprehending arrest in case FIR No.229/2015 registered at PS Parliament Street u/s 419/410/120B IPC. A similar bail application moved by the applicant before the learned ASJ, Patiala House Courts, New Delhi has been dismissed on 05.12.2015.

2. The aforesaid case arises on the complaint of the complainant Ms. Indu Shukla. The case of the complainant is that in the month of October 2012, one Anil Kumar Bhadoria known to the family of the complainant (who is also one of the accused), came to her along with one K.K. Sharma – also co-accused. The said persons induced and allured the complainant that the wife of K.K. Sharma, namely, Tanisha Rani Sharma – the applicant/ accused is the daughter of a Minister of Uttarakhand and belongs to a royal family having good links with various ministers. The complainant was allured that if she arranges Rs.1 crore, she would be made a Director in the Food Corporation of India (FCI). She was allured that when she becomes a Director, she would get a salary of about Rs.1 lakh, apart from a vehicle with red beacon and an accommodation to live in Delhi. The complainant stated that she fell into the trap laid by the accused, and made payments - and even supplied household goods, to the accused from time to time, details whereof have been set out in her complaint/FIR.

3. The allegation of the complainant is that the monies paid/ spent by her, which are claimed to be in the tune of Rs.91 lacs - over the period from November 2012 to October 2013, have primarily been pocketed by the applicant Tanisha Rani Sharma. According to the complainant, monies were, inter alia, paid and meetings were held between her and the accused- including the applicant, at the official residence of a Central Minister at 9, Feroz Shah Road, New Delhi.

4. The case of the complainant is that she was throughout being misled and defrauded by making knowingly false promises by the accused persons, who induced her to part with a huge amount of money, in cash and kind.

5. The submission of learned senior counsel for the applicant is that the allegations made by the complainant are false. K.K. Sharma is engaged in coaching IAS aspirants. The complainant was coached by K.K. Sharma. The complainant, thus, knew K.K. Sharma and his wife Tanisha Rani Sharma, the applicant. Learned senior counsel for the applicant submits that the FIR was lodged highly belatedly in October 2015, whereas, the monies were allegedly paid between November 2012 and October 2013. The delay in lodging of the complaint itself, prima facie, shows that the same is concocted and not true. It is further argued that though the complainant claimed to have arranged monies through her brother, namely, Ashok Kumar. The said brother is totally unemployed. The complainant herself is not married, and her father is only a Class IV employee with Municipal Corporation of Delhi, who is an accused in a bribery case – the trial of which is going on in a CBI Court in Delhi.

6. Learned senior counsel for the applicant submits that the complainant claims to have borrowed Rs.11,93,000/- from one company and Rs.21,93,000/- from another company for paying the sum to the accused persons. However, it is not clear whether these companies were even filing their income tax returns, disclosing such large amounts of income.

7. Learned senior counsel for the applicant further submits that the allegations contained in the FIR, as registered, are at variance with the complaint dated 22.05.2015 made by the complainant. It is submitted that the FIR as lodged is an improved and a different version from the initial complaint dated 22.05.2015. Thus, the registration of the FIR appears to be

in connivance with the I.O. Allegations of payment of bribery by the complainant to the I.O. is also made in the application.

8. Learned senior counsel for the applicant submits that the applicant has been called for investigation on nearly ten occasions, and that she has joined the investigation as and when she was called by the I.O. He submits that the applicant has clean antecedents and that she is not involved in any other case. He places reliance on ***Arnesh Kumar v. State of Bihar***, (2014) 8 SCC 273 to submit that the applicant is entitled to grant of anticipatory bail on account of her clean antecedents. No reason has been brought forth as to why her custodial interrogation is necessary.

9. Learned senior counsel for the applicant further submits that the applicant is willing to be subjected to such terms and conditions as this Court may deem appropriate and that she shall continue to join the investigation in future as well.

10. The application is opposed not only by the State, which has filed several status reports, but also by the complainant who is represented through counsel. Mr. Katyal, learned APP has drawn the attention of the Court to the status reports filed in the case. It is pointed out that the complainant has provided video and audio clips about the conversation between the complainant and the applicant, Anil Kumar Bhadoria and K.K. Sharma (two of the other accused). In these audio and video clips, the complainant talks about the money that she has given to the accused, and the applicant, K.K. Sharma and Anil Kumar Bhadoria have admitted the receipt of money and they have given the excuse for the work not being done – namely, the complainant not being appointed as a Director in FCI and the

other similar promises not being fulfilled, on grounds such as, the Minister is ill; he has not come, and; the complainant may forget about the money for about 15 days and the same would be returned thereafter on the 16th day. The complainant has also submitted the messages received from the accused which, inter alia, states that the Minister has been spoken to, and he has stated that he is coming after a couple of days and that he would return the money. The status report also discloses that in relation to the goods purchased by the complainant, which were directly delivered at the residence of the applicant, the bills have been got verified from the concerned owner/ shopkeeper. The status report discloses with regard to the verification got done from the vendors/ suppliers, as follows:

i) Two ring of gold studded with precise stones from R.C. Jewellers (P) Ltd. cost of Rs.350,000/- verified.

ii) Two bills of kitchen wares purchased from Balaji Bartan Bhandar, Karol Bagh cost of Rs.53,925/- was verified. These kitchen wares were delivered to the rented house of the accused i.e. 30/25, East Patel Nagar, N. Delhi.

iii) Bill of M/s Gaurav H/W & Sanitary, Karol Bagh cost of Rs.10,260/- was verified. These goods were delivered to the rented house of the accused i.e. 30/25, East Patel Nagar, N. Delhi.

iv) Bill of M/s Goyal Inverter Shop, cost of Rs.13,000/- was verified. These inverter was delivered and installed to the rented house of the accused i.e. 30/25, East Patel Nagar, N. Delhi.

v) 3 Bills of Arora Furnishing, cost of Rs.110,000/- was verified. These furnishing goods were delivered and installed to the rented house of the accused i.e. 30/25, East Patel Nagar, N. Delhi.

vi) Bill of Spy View Security System, cost of Rs.40,335/- was verified. These articles were delivered and installed to the rented house of the accused i.e. 30/25, East Patel Nagar, N. Delhi.

vii) 3 Bills of M/s Talwar Sales Corporation (i.e. Samsung LED, Window AC & Toshiba LCD), cost of Rs.75,400/- was verified. These goods were delivered and installed to the rented house of the accused i.e. 30/25, East Patel Nagar, N. Delhi. From the installation ID of these goods it was clear that Mr. Harishankar Mishra received these goods.

viii) Bill of Black Berry Mobile purchased from the shop of Communication Care cost of Rs.30,000/- was verified. And it is found that this mobile was used by one of the accused for a long time.

11. The status report also discloses that some of the amount claimed to have been paid by the claimant to the accused persons has been got matched from the bank statements in respect of accounts maintained with HDFC Bank, Indian Overseas Bank and Allahabad Bank. In relation to rest of the amount, notice has been issued, and investigation is going on.

12. The second status report also discloses that the address provided by the applicant i.e. 27/28, 1st Floor, Street No.13, Ranjit Nagar was always found locked. After inquiry from neighbours, it was found that the said flat

was lying locked since long and they don't know the whereabouts of the applicant.

13. The status report also discloses that the anticipatory bail granted to the co-accused K.K. Sharma and Hari Shankar Mishra had been cancelled by the learned Sessions Judge on 15.01.2016, and Hari Shankar Mishra had been arrested on 26.03.2016 and sent to judicial custody remand by the learned M.M. on 31.03.2016 after police remand. The accused Hari Shankar Mishra was apprehended on 26.03.2016. In his disclosure statement, he stated that the complainant made payment and supplied goods to the accused Tanisha Rani Sharma and others by mode and method detailed in the FIR in question.

14. This status report discloses the involvement of the applicant with the other co-accused K.K. Sharma in another case FIR No.69/2016 under section 376/506 IPC registered at PS Mukerjee Nagar under her old name i.e. Suraj Rani Sharma.

15. The State has filed an additional status report on 31.05.2016. In this status report, it is pointed out though the applicant claims to be the wife of K.K. Sharma, the co-accused, K.K. Sharma in his Bail Appl. No.566/2016 in case FIR No.69/2016 under section 376/506 IPC registered at PS Mukerjee Nagar stated that he is an unmarried person. Thus, the marital status and relationship of the applicant with K.K. Sharma is also not clearly disclosed by the accused persons. While the applicant claims that she is the wife of K.K. Sharma, he claims otherwise.

16. This status report further discloses that the applicant has admitted that she has no permanent address in Delhi. During her interrogation, she did not cooperate, and did not make a disclosure of the place where her father resided in India. Till date, she has not provided any address of her relatives in India, or anywhere in India where she could be contacted in case of her jumping the bail. With this report, the State has placed on record the photocopy of the question-answer session undertaken with the applicant during her interrogation. Pertinently, it has been found during investigation that in her income tax returns for the years 2011-12, 2012-13, 2013-14 and 2014-15, the applicant had shown three different residential addresses in Delhi. Her latest address is shown as that of Ranjit Nagar. However, the applicant was never found at the said address, whenever the I.O. has visited the same. This status report also shows that the applicant has sought to suppress the fact that she owned a parcel of land purchased by her in 2013 at Haidergarh, Lucknow, U.P. vide sale deed registered in the office of the Sub-Registrar. In the sale deed, she claims to be a resident of No.1, Silver Oak Apartments, 21 Gokhale Marg, Lucknow. However, she did not disclose her said address during her interrogation. A copy of the sale deed in respect of the aforesaid land has been placed on record with the status report.

17. Mr. Katyal has drawn the attention of the Court to some of the questions put to the applicant during her interrogation, to highlight the fact that she is not cooperating during investigation. When she was asked about her permanent address, she stated that she does not have any permanent address. She stated that she resides at her Ranjit Nagar house and all the

correspondences are undertaken at the said address. However, as aforesaid, she is not found at the said address whenever visited, and even neighbours are not aware of her whereabouts. The said premises have always been found to be locked.

18. Mr. Katyal points out that the applicant was confronted with the video recording provided by Indu Shukla/ the complainant, wherein the applicant asked Indu Shukla to accompany her to the Minister, whereas Indu Shukla was seen stating that she would take back the money that she has paid to the applicant. The applicant was asked, as to which is the money about which the said video recording was made. The applicant responded by stating that she does not know anything about the said video recording, and the same is false. She denied that she had said anything like that.

19. She was further confronted with the video recording where Indu Shukla is talking about making payment of Rs.65 lacs to the applicant at 9, Feroz Shah Road; Rs.5 lacs at United Café, and; Rs.2 lacs at Connaught Place Bengali Restaurant, and A.K. Bhadoria admitted the said position. The applicant was asked to respond to the said video recording. The applicant responded by stating that, about the same, only Anil Bhadoria can respond and that she cannot say anything on the issue. She stated she has no money of the complainant.

20. Mr. Katyal points out that during the interrogation of the applicant conducted on 03.12.2015, she was specifically asked whether she had any property in U.P. She responded by stating that she did not have any property. She was then confronted that she had purchased a property with Anil Bhadoria in Lucknow. She once again denied having purchased any

property with Anil Bhadoria. Mr. Katyal points out that the said answer given by the applicant is obviously false, in view of the fact that there is a registered sale deed of the land purchased by the applicant with Anil Bhadoria in Lucknow. The same was purchased in February 2013 i.e. well before the recording of the statement of the applicant on 03.12.2015.

21. Mr. Katyal has also referred to the answers given by the applicant to certain questions on 16.12.2015, to point out the absurdity thereof. She was asked as to why she had got CCTV cameras fitted at her home. She responded that she did not get the CCTV camera fitted. It was the complainant Indu Shukla, who got them fitted. On being asked how and why Indu Shukla got the CCTV cameras fitted at her residence, she stated that Indu Shukla used to have the keys of her house. On being asked as to why Indu Shukla used to have the keys of her house, she stated that this was because Indu Shukla and the applicant were about to become business partners.

22. On being asked, as to what kind of business partners they were to become, she answered that Indu Shukla and the applicant desired to start a business of Hena Herbal. When she was asked as to what was the purpose or connection between the business and the CCTV cameras, and why it was installed, she stated that she has no answer to this question and that Indu Shukla could answer the same.

23. Mr. Katyal submits that from the above, it is evident that the applicant has not been cooperating in the investigation since she is enjoying protection from the Court against her arrest.

24. Another additional report has been filed by the State on 25.07.2016. The same reiterates the position with regard to verification done about the delivery of the articles purchased by the complainant for the applicant, which were delivered at the address of the applicant.

25. Mr. Katyal submits that a prima facie case is made out against the accused persons. The accused have attempted to use the name and office of a Union Cabinet Minister. The custodial interrogation of the applicant is required to establish/ verify the chain of events and the involvement of other accused persons. Cheated amount and articles given to the accused have also to be recovered from them.

26. The applicant has not given a permanent address in Delhi. She has not disclosed the details of her family and their addresses in Delhi and other parts of India. Thus, if she jumps bail, it would be difficult to make her join the investigation and face trial. The status report also discloses that the applicant was using two identity proofs as Suraj Rani and Renu Thakur.

27. In the matter of consideration of an application for anticipatory bail, the High Court, or Court of Sessions – to whom the application is made, exercises its judicial discretion on the particular facts and circumstances of the case to decide whether, or not, to grant anticipatory bail. If it considers the case to be fit to grant bail it may do so on such conditions as the case may warrant, on considerations similar to those mentioned in Section 437, or which are generally considered to be relevant under section 439 Cr PC. The judicial discretion vested under section 438 cannot be read down by reading into the statute conditions that are not to be found therein. This position is

well settled by ***Gurbaksh Singh Sibbia v. State of Punjab***, 1989 SCC (Cri) 465. In ***Sibbia*** (supra), the Supreme Court held that there is no warrant for reading into section 438 the conditions and limitations subject to which bail can be granted under section 437(1) of the Code. The Supreme Court, inter alia, observed in para 41 as under:

> "*... ... ... there is an important principle involved in the insistence that facts, on the basis of which a direction under Section 438(1) is sought, must be clear and specific, not vague and general. It is only by the observance of that principle that a possible conflict between the right of an individual to his liberty and the right of the police to investigate into crimes reported to them can be avoided. A blanket order of anticipatory bail is bound to cause serious interference with both the right and the duty of the police in the matter of investigation because, regardless of what kind of offence is alleged to have been committed by the applicant and when, an order of bail which comprehends allegedly unlawful activity of any description whatsoever, will prevent the police from arresting the applicant even if he commits, say, a murder in the presence of the public. Such an order can then become a charter of lawlessness and a weapon to stifle prompt investigation into offences which could not possibly be predicated when the order was passed. Therefore, the court which grants anticipatory bail must take care to specify the offence or offences in respect of which alone the order will be effective. The power should not be exercised in a vacuum.*"

28. In ***Siddharam Satlingappa Mhetre Vs. State of Maharashtra & Others***, (2011) 1 SCC 694, the Supreme Court referred to its earlier decision in ***Sibbia*** (supra) and culled out the principles with regard to consideration of an application for anticipatory bail. One of the considerations, which is relevant for the present purpose, is the following:

> "*(e) Although the power to release on anticipatory bail can be described as of an "extraordinary" character this would "not justify the conclusion that the power must be exercised in exceptional cases only". Powers are discretionary to be exercised in the light of the circumstances of each case.*"

29. In ***Mhetre*** (supra), the Supreme Court set out the relevant consideration for exercise of the power of the Court under section 438 Cr PC in the following terms:

> "***Relevant consideration for exercise of the power***
>
> ***111.*** *No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail. We are clearly of the view that no attempt should be made to provide rigid and inflexible guidelines in this respect because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail.* ***In consonance with the legislative intention the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case.*** *As aptly observed in the Constitution Bench decision in Sibbia case [(1980) 2 SCC 565 : 1980 SCC (Cri) 465] that* ***the High Court or the Court of Session has to exercise their jurisdiction under Section 438 CrPC by a wise and careful use of their discretion which by their long training and experience they are ideally suited to do.*** *In any event, this is the legislative mandate which we are bound to respect and honour.*
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> ***112.*** *The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:*
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> *(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
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> *(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment*

on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

***113.** Arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. The* *court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record.*"

30. Thus, the allegations made against the applicant in the complaint, which forms the basis of the FIR, and the submissions of the applicant would be taken into consideration by the Court while deciding the application under section 438 Cr PC.

31. In the present case, though it is the submission of learned senior counsel for the applicant that the allegations made in the complaint are at variance with those found in the FIR, it appears, that verification of the allegations as found in the FIR, prima facie, lends credibility to the accusation of the complainant with regard to withdrawal of monies from the bank account of companies held by the close relative/ brother of the complainant, and of the payment thereof, inter alia, to the applicant. The complainant had produced audio and video recordings which do suggest that the applicant not only received the monies, but also that the same were paid – not gratis, but as considerations for certain favours. They do suggest that the complainant was led up the garden path – that the applicant and the other accused would, if the amounts are paid by the complainant, be able to secure the position for the complainant as a Director in FCI, or in the Ministry of Mines, or that she would be favoured with the award of a tender. The alleged payment of the monies, apparently, was made in a government bungalow at 9, Feroz Shah Road, New Delhi i.e. the official residence of a Central Minister. Prima facie, it appears that the applicant invoked the name of the Central Minister to claim that the money had been collected for him

and paid to him for getting the job done, and that the same would also be repaid by him.

32. The supply of large number of household articles and electronic items etc. at the residential address given by the applicant in New Delhi, also appears to be, prima facie, established upon verification from the suppliers – who would be independent and would have no reason to falsely implicate the applicant/ accused. She has not disclosed information with regard to her permanent address. She has not disclosed the addresses of her close relatives, including her parents. The applicant is not to be found at the address furnished by her in Ranjit Nagar, New Delhi. Her neighbours have reportedly stated that the premises is lying locked since long and they do not know the whereabouts of the applicant. The applicant, apparently, is going around with different names. She also, apparently, made a mis-declaration during interrogation with regard to the properties held by her. One of the co –accused Hari Shankar Mishra has also named the applicant as the person who received the monies from the complainant; by the mode and method, and; for the purpose disclosed by the complainant in the FIR.

33. Though the applicant has joined the investigation, as pointed out by Mr. Katyal, the answers given by her to several questions are evasive and even prima facie false and misleading. Upon being confronted with the audio and video recordings and the contents thereof, she has evaded to give a reply by simply labeling the same as false. When she was questioned about the ownership of properties by her, she stated that she did not own any property, even though there is a registered sale deed, inter alia, in her favour of a property in Lucknow, which she purchased in 2013 – even though her

statement was recorded in 2015. She did not disclose during her interrogation, her address which is recorded in the sale deed. It is also evident that the applicant has been responding with answers which are either absurdical or whimsical. She claims that the complainant got the CCTV cameras fitted at her home; that the complainant had the keys of her house, and; that the complainant had the keys as she was about to become a business partner of the applicant. She did not give answer to the question as to what was the purpose or connection between the prospective business and the CCTV cameras, and why they were installed.

34. An order granting anticipatory bail cannot be allowed to become a charter of lawlessness and a weapon to stifle prompt investigation into the offences, as observed in ***Sibbia*** (supra).

35. Interrogation of an accused, while in custody, is qualitatively different from that undertaken while the accused is enjoying protection under an order of a Court against his arrest. This is a well recognized position is law.

36. In ***Sudhir*** (supra), the Supreme Court relied upon an earlier decision in ***State of A.P. Vs. Bimal Krishna Kundu and Another***, (1997) 8 SCC 104, wherein the Supreme Court had, *inter alia*, observed:

> *"10. x x x x x x x x*
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> *12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents.* ***It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail***

> ***order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy***. *Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on "the career of millions of students", learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order."* (emphasis supplied)

37. In ***Sudhir*** (supra), the Supreme Court declined to grant pre-arrest bail to the appellant while observing:

> "*13. Having considered the submissions made by learned counsel for the parties, and after considering the gravity of the offence, circumstances of the case, particularly, the allegations of corruption and misappropriation of public funds released for rural development, and further considering the conduct of the appellants and the fact that the investigation is held up as the custodial interrogation of the appellants could not be done due to the anticipatory bail, we are of the opinion that the High Court has rightly cancelled the anticipatory bail granted to the appellants by the Additional Sessions Judge, Jalgaon.*"

38. I find merit in the submission of Mr. Katyal that a prima facie case is made out against the applicant. Her custodial interrogation is required to establish/ verify the chain of events and involvement of not only the applicant to other accused persons, but also the cheated amount and the

articles given to the accused have to be recovered from them. The applicant has not given her permanent address in Delhi or elsewhere. If she jumps bail, it would be difficult to make her join the investigation and face trial. She is using different identities and she is involved in another serious case under section 376/ 506 IPC registered at PS Mukerjee Nagar vide FIR No.69/2016. Her relationship with the other co-accused K.K. Sharma – i.e. whether she is his wife or not, is also in doubt.

39. It is clear that the applicant has not cooperated with the investigating agency during her interrogation while enjoying interim protection. No doubt, the applicant is a woman. However, she appears to be the linchpin of the alleged fraud and the main beneficiary thereof. If the allegations against her are to be believed, she is engaged in wheeling and dealing as a power broker. Apparently, she is worldly wise and in a position to face interrogation in custody. In the present case, the allegations against the applicant are serious, which appear to the Court weighty at this stage. The custodial interrogation of the applicant is required by the investigating agency in order to complete their investigation.

40. For all the aforesaid reasons, I do not find any merit in this application and the same is, accordingly, dismissed.

(VIPIN SANGHI)
JUDGE

AUGUST 03, 2016