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

+ BAIL APPLN. 13/2016

KAMLESH

..... Petitioner

Through: Mr.Shivam Choudhary and Ms.Anjali
Ratri, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Sudershan Joon, APP for the State
with Insp. Arun Kumar, AATS/NW

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **29.03.2016**

1. The petitioner is seeking regular bail in case FIR No.96/15, under Sections 420/408/468/471 IPC, PS Mukherjee Nagar, Delhi.
2. Notice of the application has been given to the State.
3. Status report has been filed by the State.
4. In the status report it is submitted that the FIR has been registered on the complaint of Sh. Shyam Kumar on behalf of Bhagwan Shree Lakshmi Narayan Dham and Narayan Shakti Peeth complaining that one person Sohan Lal working in the accounts section of the trust was assigned with the duty of depositing the cheques in the bank.
5. Sohan Lal opened a fake account in Bank of Baroda, Sector-9, Rohini, Delhi in the name of 'Narayan Shakti Peeth' and in that account bearing No.27200200000606, Sohan Lal deposited two cheques bearing Nos. 099060 & 099061.

6. As per status report, Sohan Lal opened three bank accounts under the title of BSNLD & NSP wherein the petitioner Kamlesh was made nominee, the role has been disclosed as under:

“During course of investigation it came on record that accused Sohan Lal opened fraudulently 03 Bank Accounts under the title of BSNLD & NSP. In all these accounts Kamlesh was found Nominee. The statements of Pankaj Aggarwal, Prem Nath & Tarun Kumar u/s 161 Cr.P.C. revealed that they had handed over Cheques issued by them in favour of BSNLD & NSP directly to the said accused, with request to deliver the same at Trust as she was the active worker in the Trust. Instead of delivering the same at Trust office, she handed over the same Cheques to her husband namely Sohan Lal for depositing the same in their fraudulently opened accounts. From this embezzled amount she also purchased a Swift Car, a flat situated at Sonapat, Haryana & Gold Ornaments. On 21.05.15, she was arrested in the said case and Swift Car, documents of the property had seized at her instance, but no Gold Ornaments have been recovered so far.

7. On behalf of the petitioner it has been submitted that the fake accounts have been opened allegedly by Sohan Lal, husband of the petitioner. If in the alleged fake bank accounts opened, she has been made a nominee, that itself is not sufficient to deny her bail even after ten months of incarceration.

8. Learned counsel for the petitioner has further submitted that in FIR there was no allegation against the present petitioner. For four months her name did not surface during the investigation of this case. However, when the petitioner lodged a criminal case, she has also been arrested as an accused in this case on the basis of subsequent statement recorded under Section 161 Cr.P.C.

9. Learned counsel for the petitioner has submitted that since investigation in the matter is complete and the petitioner had been in custody for about ten months, she may be ordered to be released on bail.

10. On behalf of the State and the complainant prayer for bail has been strongly opposed on the ground that petitioner being wife was in criminal conspiracy with the husband/co-accused in furtherance of common intention in the alleged offence. She has played vital role and is also a beneficiary by purchasing flat, car and jewellery etc.

11. Learned counsel for the petitioner has submitted that so far flat is concerned, letter has already been sent by the investigation agency to the builder not to hand over the possession to the petitioner and the car has also been seized and no recovery is to be effected from the petitioner.

12. Taking into consideration the entire facts and circumstances that the investigation in the matter is complete, no recovery is to be effected from the petitioner and the role attributed to her, she is ordered to be released on bail on her furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount, subject to the satisfaction of concerned Trial Court and subject to following conditions:

- (i) The Petitioner shall not leave the country without the permission of the Court.
- (ii) The Petitioner shall surrender her passport before the concerned Trial Court. If she is not holding any passport, then she shall file an affidavit to this effect.
- (iii) During the pendency of the trial, the Petitioner shall not contact the Complainant or other public witnesses or influence them in any manner whatsoever.

13. Any observations made hereinabove for the purpose of dealing with the contentions raised during hearing of the bail application shall not be deemed to be an expression on merits of the case.
14. Bail application stands disposed of.
15. A copy of the order be given dasti, under the signature of the Court Master, as prayed.

PRATIBHA RANI, J.

MARCH 29, 2016/ 'hkaur'