

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

Date of decision: 4th January, 2016

+ **BAIL APPLN. 2812/2015**

PALVINDER SINGH

Through

..... Applicant

Mr. Surinder Kumar and Mr. Chander
Bhan Kumar, Advocates

versus

STATE (NCT OF DELHI)

Through

..... Respondent

Mr. Rajat Katyal, APP for the State
SI Devendra Singh, P.S. Hari Nagar

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is an application under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in FIR No. 1308/2015 under Sections 420/511/471 IPC registered at Police Station- Hari Nagar, Delhi.

2. Mr. Surinder Kumar, learned counsel appearing on behalf of the applicant states that the order dated 21st December, 2015 rejecting the applicant's second bail application is untenable inasmuch as there is no bar in law for maintaining second application for anticipatory bail. Learned

counsel would then urge that subsequent to the dismissal of the first application for anticipatory bail, the applicant had joined investigation, which was a changed circumstance and further that nothing incriminating has been found by the police in their investigation against the present applicant.

3. On the other hand, Mr. Rajat Katyal, learned APP appearing on behalf of official respondent invites my attention to the order dated 21st December, 2015 whereby the second application for anticipatory bail filed on behalf of the present applicant was dismissed by the Additional Sessions Judge. A perusal of the same reveals that although the first application for anticipatory bail filed on behalf of the present applicant was dismissed on merits by the learned Additional Sessions Judge by way of order dated 22nd September, 2015, the second application for anticipatory bail filed on behalf of the present applicant concealed the factum of the earlier bail application having been dismissed.

4. Mr. Katyal would then urge that since the time of the registration of the subject FIR and the disclosure statement made on behalf of the co-accused Gulshan Kumar, the present applicant has neither joined investigation nor has made himself available for questioning by the

Investigating Officer in the subject FIR except on the solitary occasion when in the second application for anticipatory bail, the present applicant managed to obtain interim protection without disclosing the factum of the first application for anticipatory bail having been dismissed by the trial Court.

5. I have examined the case diary and it is observed that non-bailable warrants were issued against the present applicant as far back as on 28th September, 2015. Subsequent thereto, the proceedings under Section 82 Cr.PC were initiated against the present applicant on 26th October, 2015, returnable on 19th December, 2015.

6. The process under Section 82 Cr.PC was executed at the admitted address of the present applicant on or before 19th November, 2015 by Head Constable- Kailash Chand. Despite that, the present applicant did not make himself available before the Magistrate concerned on the returnable date i.e. 19th December, 2015.

7. The second application for anticipatory bail filed on behalf of the present applicant came to be dismissed on 21st December, 2015.

8. It is an admitted position that despite notice of the facts and circumstances as elaborated hereinabove, the present applicant has steadfastly refused to join the investigation.

9. As per the prosecution, the co-accused- Gulshan Kumar in the subject FIR came personally to the Punjab National Bank, Hari Nagar, New Delhi on 19th September, 2015 and submitted a cheque bearing no. 255540 in the amount of Rs. 37,50,000/- for encashment.

10. The Senior Manager of the concerned Branch was suspicious and enquired from the drawer of the subject cheque as to whether the same had been duly issued by the latter. It was discovered that the subject cheque was a forged and fabricated one. The co-accused- Gulshan Kumar was arrested on the spot and in his disclosure statement, implicated the present applicant as having provided him with the subject cheque.

11. It is an admitted position that the co-accused- Gulshan Kumar and the present applicant know each other, although it has been urged on behalf of the applicant herein that there is enmity between them which has resulted in the former falsely implicating the latter.

12. In view of the foregoing and specifically the conduct of the present applicant; and in view of the decision of the Supreme Court in ***Lavesh vs. State (NCT of Delhi)*** reported as **(2012) 8 SCC 730**, the present bail application is devoid of merit and the same is accordingly dismissed.

JANUARY 04, 2016

sd

SIDDHARTH MRIDUL, J

