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

\+ BAIL APPLN. 295/2017

LOKESH KUMAR MALHOTRA ..... Petitioner

Through: Mr. Kirti Uppal, Sr. Adv. with Mr. Jaspreet Singh Rai, Mr. Sidharth Chopra and Mr. Pranvir Sethi, Advs.

versus

STATE ..... Respondent

Through: Mr. Amit Gupta, APP for State.
Mr. Mohit Mathur, Sr. Adv. with Mr. Ashish Bhan, Ms. Padmaja Kaul and Mr. Apoorv Agarwal, Advs. for Complainant.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

O R D E R

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By this petition under Section 438 Cr.P.C., petitioner has prayed for grant of anticipatory bail in FIR No.31/2016 under Sections 408/420/468/471/120B IPC registered at police station Economic Offences Wing. Petitioner had been working as an Accounts Assistant with the complainant's company, namely, M/s Mitsubishi Corporation of India Pvt. Ltd. (hereinafter referred to as 'the Company') from the year 2008 onwards. He worked in the Company till 1st December, 2015. In the month of August, 2015, it was revealed that petitioner had misappropriated large sums for his personal gains by forging and/or interpolating the authorisation letters in favour of third party, that is, Forex Exchange Vendors and got issued demand drafts in favour of the said Forex Vendors, inasmuch as, transferred funds of Company to some persons. Petitioner had also prepared unauthorised request letters under his signatures seeking procurement of foreign exchange from the unauthorised Forex Vendors. He obtained foreign exchange from such Forex Vendors on the pretext of false business trips to be undertaken by some of the employees of the Company. Petitioner was dealing with procurement of the Forex for the employees who had been visiting abroad. Petitioner had also made certain online transactions to third parties without any authorisation.

Allegations against the petitioner are serious in nature. During the investigation till now, it has been found by the Investigating Officer that petitioner had booked a flat in Panchsheel Greens-II, Greater Noida, Uttar Pradesh jointly with his wife for which he had made payment of ₹15,18,715/-; out of which ₹4,95,015/- was made from the account of the Company. On 2nd May, 2013, petitioner booked another flat in Indrapuram, Ghaziabad, Uttar Pradesh for ₹45,26,640/- lacs and transferred a sum of ₹10,90,000/- lacs from the Company's account. On 14th October, 2015, petitioner transferred ₹2,13,408 and ₹1,77,840/-, through NEFT, from the account of the Company to the account of one Sh. Manmeet Singh. On 27th October, 2015, the said amount was transferred by Sh. Manmeet Singh in the account of petitioner. Statement of Sh. Manmeet Singh has been recorded by the Investigating Officer wherein he has stated that he had transferred the aforesaid amount at the request of petitioner. Learned APP submits that it has also been revealed that petitioner had made interpolations in the letters written to the Banks for the release of payments to the Forex Vendors.

Learned senior counsel for the petitioner submits that the letters were, in fact, signed by the Managing Director. Learned senior counsel for the complainant submits that the letters were indeed signed by the Managing Director of the Company but some space was left out by the petitioner, which he interpolated later on by inserting the name of Forex Vendors. Learned senior counsel further submits that on 27th November, 2015, petitioner had admitted, in writing, that he had illegally transferred the funds of the Company. Petitioner had also issued a cheque for ₹1.50 crores in the name of the Company. Petitioner has admitted to have siphoned of more than ₹5 crores.

Learned senior counsel for the petitioner contends that the letters as well as cheque were obtained from the petitioner under coercion. Further that complainant's company is a multinational company where audit is being done regularly, therefore, had there been any embezzlement done by the petitioner it would have been noticed by the auditors. Learned senior counsel for the complainant submits that it is the petitioner who used to provide relevant documents to the auditors at the time of audit of the Company and he did not produce the relevant documents. Learned APP submits that petitioner did not make any complaint to any authority immediately after 27th November, 2015 to the effect that the letters and cheque were obtained by the complainant from him by exercising coercion or force.

Learned senior counsel for the petitioner further submits that no custodial interrogation is required since petitioner has already cooperated in the investigation. Petitioner appeared before the Investigating Officer for more than 30 times. Reliance has been placed on Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors. 2011 CRI. L. J. 3905 to contend that since petitioner has joined the investigation and is not likely to abscond, therefore, anticipatory bail shall be granted to him. It is contended that arrest has to be made only in rare cases and the personal liberty of an individual cannot be jeopardised.

Learned APP disputes the contentions of learned senior counsel for the petitioner that petitioner had appeared before the Investigating Officer for more than 30 times and had cooperated in the investigation. Learned APP submits that petitioner had appeared before the Investigating Officer only twice. He did not give specimen signatures and handwriting. Petitioner successfully evaded arrest and NBWs were issued against him. By placing reliance on Lavesh vs. State (NCT of Delhi) 2012(7) SCR 469, learned APP contends that since petitioner has been evading arrest proceedings under Section 82 Cr.P.C. have been initiated against him, therefore, anticipatory bail should not be granted to the petitioner.

Keeping in mind the aforesaid facts and circumstances of this case, more particularly the gravity of offence, I do not find it to be a fit case to grant benefit of anticipatory bail to the petitioner. Bail application is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

SEPTEMBER 05, 2017
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