

\$~ 23

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

+ BAIL APPLN. 493/2017

KRISHNA WANTI

.....Petitioner

Through:

Mr. S.K. Mishra, Advocate, with
Mr. Ishant Garg, Advocate.

Versus

STATE

.....Respondent

Through:

Mr. Mukesh Kumar, APP for the
State with SI Harhesh Meena, P.S.
Tilak Marg, New Delhi.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
13.10.2017

%

1. By way of the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred 'Cr.P.C.'), the petitioner seeks **grant of Regular Bail** in FIR No. 204/2016 under Sections 419/420/468/471/120-B of the Indian Penal Code, 1860 (hereinafter referred as 'IPC') registered at Police Station Tilak Marg, New Delhi. Status report is on record.
2. The brief facts of the case are that, a CS No. 190/15 was pending in the court of MS Jasjeet Kaur, Ld. CJ-01, PHC, New Delhi which was instituted by a lady namely Krishna Wanti in the guise of Lt. Lam Kaur w/o Sohan Singh R/O F-146 Malcha Marg New Delhi. The said suit was filed for seeking a decree of declaration, declaring that her husband namely Shri Sohan Singh is dead. On 13.05.16, the court was informed

by Mr. Jaswant Singh S/o late Sohan Singh that the petitioner is an impersonator and she was impersonating herself as Smt. Lam Kaur who already expired on 24.09.2010. The said Mr Jaswant Singh stated that he is the son of real Smt. Lam Kaur and he was residing in property F-146, Malcha Marg, New Delhi and the imposter was trying to grab the said property by filing the said suit. Civil Judge reported the matter to SHO P.S. Tilak Marg, who after inquiry registered the present case under Sections 419/420/468/471/120-B IPC.

3. Mr. S.K. Mishra, the learned counsel for the petitioner contended that the petitioner is illiterate and does not know English; that the main conspirators have shifted the entire liability upon the petitioner who has been made a scapegoat in the present FIR; that there is no evidence except one affidavit which was signed by her in good faith; that the petitioner is a widow and a senior citizen, suffering from various old aged ailments and thus deserves leniency.
4. Per Contra, Mr. Mukesh Kumar, APP for the state vehemently opposed the bail application and contended that the petitioner is not liable to be granted regular Bail as she has been actively involved in the commission of a serious offence. He further contended that she represented before various authorities as the real Lam Kaur and is part of a deep rooted conspiracy.
5. I have heard the learned counsel for the parties at length and perused the material on record.
6. It has been revealed from the investigation that the petitioner obtained a forged Aadhar Card in the name of the real Lam Kaur w/o Sohan Singh

R/O F-146, Malcha Marg, New Delhi, on the basis of changes made in her old Aadhar Card which was issued in the name of Krishna Wanti W/o late Girdhari Lal, R/o L315 Delta 2, Greater Noida, UP. She has also obtained a forged PAN Card, a forged Voter ID Card and a forged driving license in the name of the real Lam Kaur. Further, the investigation revealed that the said Voter ID Card was not found in the records of the Election Commission, and is thus a forged document. The FSL reports confirm that the documents have been fabricated. The petitioner also opened a fake bank account in the name of the real Lam Kaur w/o Sohan Singh R/O F-146 Malcha Marg New Delhi in the Bank of Baroda, Noida, UP. In this account through the Agreement to Sell of the F-146, Malcha Marg, New Delhi property, she received Rs. 4 Lakh as token money and made her own grandson the nominee of the fraudulent bank account. In addition to the above, the petitioner also made an application for mutation of F-146, Malcha Marg, New Delhi property in her name but for this purpose the death certificate of late Sohan Singh was required. She filed a Declaration Suit CS (OS) No. 190/15 for the same. The material on record prima facie shows active participation of the petitioner in this fraudulent act. The investigation is still in its embryonic stage, and thus the chance of the petitioner escaping the procedure of law, tampering with the evidence or threatening the complainant and witnesses exists.

7. In ***Kalyan Chandra Sarkar vs. Rajesh Ranjan***, reported in **2004 (7) SCC 528**), the Apex court has laid down the principles of granting or refusing bail and held as under :

"The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*
- b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*
- c. Prima facie satisfaction of the court in support of the charge."*

8. This principle was further reiterated in State of ***U.P. VS Amarmani Tripathi*** reported in **(2005) 8 SCC21:(AIR 2005 SC 3490)**, wherein the apex court held as under:

"It is well settled that the matters to be considered in an application for bail are

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the charge; (iii) severity of the*

punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (Prahlad Singh Bhati vs. NCT, Delhi 2001 (4) SCC 280 and Gurcharan Singh vs. State (Delhi Administration) AIR 1978 SC 179).

(ii) While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. ”

9. Keeping in view the principle laid by the Apex Court and the aforementioned facts and circumstances of the present case as well as taking into consideration the specific role attributed to the appellant/accused and the gravity of the offences alleged, this court does not deem it fit to grant bail to the petitioner.
10. Hence, the present petition filed by the petitioner is dismissed.
11. Before parting with the above order, it is made clear that observations made in the order shall have no impact on the merit of the case.
12. Accordingly, the present petition stands disposed of.

SANGITA DHINGRA SEHGAL, J

OCTOBER 13, 2017

gr//