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* IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : APRIL 19, 2017

\+ **BAIL APPLN. 1849/2014 & Crl. M A Nos. 13417/2016, 12789/2014, 5901/2015 & 14254/2015**

DEEP PARIKH ..... Petitioner

Through: Mr. Mukul Talwar, Sr.Advocate with Mr. Sunil Kumar & Mr. Ankit Dixit, Advocates.

Versus

STATE ..... Respondent

Through: Ms. Meenakshi Dahiya, APP Mr. Jinendra Jain, Advocate with Ms. Aastha Chopra, Mr. Vaibhav Mishra, Ms. Anandita Trivedi, Mr. Akashdeep & Mr. Pranay Jain, Advocates for the complainant.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. The petitioner seeks anticipatory bail under Section 438 Cr.P.C. in Case FIR No.631/14 registered under Sections 420/120-B IPC at Police Station Safdarjang Enclave. Status report is on record.

2. I have heard the learned counsel for the parties including the learned counsel for the complainant and have examined the file.

3. In the FIR, the complainant implicated the petitioner, her husband and mother-in-law for committing fraud of ₹25,00,00,000/- by making misrepresentations to return the said amount along with interest and profits, when, in fact, they had no such intention from the very inception. The petitioner and her husband had executed five MOUs to allure and dupe them. The petitioner and her husband had agreed to deposit the documents of various properties. Subsequently, it was found that the properties particularly the one bearing No.310-311, 3rd floor, Hubtown, Jogeshwari (East) Mumbai were found mortgaged with Syndicate Bank having negative lien.

4. By an order dated 22.8.2014, the petitioner was directed to deposit ₹40,00,000/- with the Registrar General of this Court to be kept in an interest bearing FDR. The interim protection was granted till the next date of hearing. The said order was duly complied and ₹40,00,000/- were deposited. It is pertinent to note that Mr.Rahul Parikh, petitioner's husband, had also filed Bail Appl.2152/2014 & Crl.M.A.15161/2014 and had deposited ₹90,00,000/- in terms of the directions of the Court.

5. By an order dated 24.2.2015, with the consent of the parties, the matter was referred to Delhi High Court Mediation and Conciliation Centre to explore the possibility of amicable settlement. The parties appeared before the Mediation Centre and the dispute was settled vide Settlement Deed dated 25.3.2015. As per it, the petitioner Deep Parikh, her husband-Rahul Parikh and mother-in-law Gurmeet Kaur, all agreed to pay ₹7,78,00,000/- within eighteen months to the complainant in full and final settlement of all the claims in respect of all the cases pending before various courts. It further reflects after adjusting ₹1,30,00,000/- received by the

complainant from the Registrar General of this Court, the remaining payment of ₹6,48,00,000/- agreed to be given in 18 equal instalments of ₹36,00,000/- each in the schedule agreed to therein.

6. Subsequently, terms and conditions of the settlement deed dated 25.3.2015 were not adhered to. The petitioner's husband-Rahul Parikh went missing. It is alleged that he is concealing his presence to avoid the creditors. The bail application filed by him has since been dismissed as withdrawn. Order dated 16.3.2016 in W.P.(Crl.)2450/2014 filed by the petitioner reveals that the Rahul Parikh was absconding on account of pressure mounted on him by various creditors and also by the recovery agencies. It is informed that the said writ petition has since been dismissed.

7. The petitioner was directed to comply with the terms and conditions of the settlement arrived at before Mediation Centre. She was given various opportunities to make certain payments to the complainant, a widow. Despite availing umpteen opportunities, the petitioner did not make any payment, whatsoever, claiming that she being a household lady was unable to pay the settled amount in the absence of her husband. Her claim to be a household lady was disputed by the complainant. She further urged that her son, namely, Aryan Parikh aged around 12 years was suffering from rare disease Uveitis.

8. By an order dated 19.7.2016, without going into the merits of the case and in the interest of justice, the petitioner who was actively participating in the company M/s Fucon Technologies Ltd. and was its whole time director, was directed to abide by the terms and conditions of the settlement arrived at before the Mediation Centre whereby a sum of ₹25,00,00,000/- along with interest was reduced to ₹7,78,00,000/- to be

taken by the complainant. Considering the various submissions of the petitioner expressing her inability to make the payment in the absence of her husband, she was at first instance directed to pay ₹1,00,00,000/- within one month to the complainant to show her bona fide to avail the discretionary relief of anticipatory bail. Needless to say, the petitioner has not complied with the said order dated 19.7.2016.

9. Learned Senior counsel for the petitioner urged that in the absence of her husband, the petitioner has no financial capacity to make the payment to the complainant. Relying on *Biman Chatterjee vs.Sanchita Chatterjee & Anr.* (2004) 3 SCC 388, learned Senior counsel urged that on the basis of the violation of the terms and conditions of the settlement, the bail granted cannot be 'cancelled'.

10. At the outset, it may be mentioned that no regular bail so far has been granted to the petitioner in the instant FIR. She was given interim protection on certain terms and conditions. At first instance by an order dated 22.8.2014, she was directed to pay ₹40,00,000/- and to furnish an undertaking to join the investigation and fully cooperate the Investigating Officer by producing all the relevant documents as and when summoned by him. On 15.12.2014, the learned counsel for the complainant submitted that the property papers given as security qua the loan advanced to the petitioner were found forged. Learned Senior counsel without admitting the submissions stated that the parties would sit down and settle their disputes and if any property papers were found forged or fabricated, the petitioner company would offer some other property papers in lieu of that property as 'security'.

11. When the matter referred to Mediation Centre with the consent of the parties, the complainant agreed to receive ₹7,78,00,000/- in installments in full and final settlement of all her claims reducing the payment from ₹25,00,00,000/- with interest. Even the said reduced amount was not paid despite settlement before Mediation Centre. Petitioner's husband went missing and bail application filed by him stood withdrawn.

12. Status report dated 7.5.2016 reflects that all the properties detailed in para (3) in the status report (numbering 1 to 4) were lying mortgaged with Syndicate Bank, Green Park, New Delhi. It included property No.310-311, 3rd Floor, Hubtown, Viva, Akruti Kailash building, Shankar Nagar, Western Express Highway, Jogeswari, Mumbai. Various other loans have been availed by the petitioner and her husband from various sources in which the properties have been mortgaged.

13. Order dated 19.8.2014 of learned Additional Sessions Judge reveals that it was the case of the prosecution that documents of properties were handed over to the complainant claiming those documents to be original, whereas those documents were only colour photocopies of the originals, The said property had been mortgaged with Syndicate Bank on 8.6.2012, much prior to the execution of MOU dated 7.2.2013.

14. Considering the serious allegations against the petitioner and her conduct not to adhere to the terms and conditions of the settlement arrived at before Mediation Centre, discretionary relief of anticipatory bail cannot be granted. The petitioner was given reasonable opportunities to abide by the terms and conditions which she utterly failed.

15. The bail application lacks in merits and is dismissed. All pending application(s) also stand disposed of.

16. Observations made in the order shall have no impact on the merits of the case.

(S.P.GARG)
JUDGE

APRIL 19, 2017
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