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

Decided on : 23rd May, 2017

\+ BAIL APPL. 685/2017 & Crl.M.A.8561/2017

RABINDRA KUMAR SINGH ..... Appellant

Through: Dr. Kislay Pandey & Ankur Gogia, Advs.

Versus

STATE OF DELHI ..... Respondent

Through: Mr. Amit Chadha, APP for State with SI Rakesh Kumar, PS New Ashok Nagar.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. First information report (FIR) No. 1136/2015 was registered on 22.8.2015 on the complaint of Akhilesh Kumar for and on behalf of Vibrant Infratel Pvt. Ltd. alleging offence punishable under Section 420 read with Section 34 of Indian Penal Code, 1860 having been committed. The crime reported in the said FIR has been under investigation, allegations therein having been made, *inter alia,* against the petitioner herein he being the prime suspect.

2. As per the status report submitted in response to the petition at hand by the station house officer of police station New Ashok Nagar, the petitioner has not been very cooperative as the documents required

to be produced were not made available. The petitioner had earlier moved an application for anticipatory bail before the Court of Sessions, it being bail application No. 161/2017 which was dismissed by the said court by detailed order dated 30.03.2017. It is in the wake of the said order that the present bail application was moved under Section 438 of the Code of Criminal Procedure, 1973(Cr.P.C).

3. The matter was heard on 19.04.2017, when the counsel for the petitioner sought time to come up with copies of orders passed on the file of company petition No. 95/2012, it having a bearing on the issues raised here. Copies of some of such orders were submitted in due course. The matter was further heard on 16.5.2017 when more time was again sought to come with additional documents. The matter was adjourned to 18th July, 2017 on such request. Thereafter on the application (Crl.M.A. 8561/2017), the hearing has been pre-poned and the matter has been heard.

4. The background facts have been succinctly noted by the Additional Sessions Judge dismissing the application for similar relief by her order dated 30.3.2017. The dispute between the first informant and the petitioner, he being the director of T& S Logistics Pvt. Ltd., relates to two agreements first dated 21.9.2010, it having been described as memorandum of understanding (MOU) and the second dated 1st September, 2011. It appears the company in which the petitioner has been a director (T&S Logistics Pvt. Ltd) was facing financial difficulties and was in need of support. It is in that context that it entered into the arrangement with M/s Vibrant Infratel through its director (first informant), pursuant to which the control and shares

of the company of the petitioner was to be transferred to the complainant in consideration of which M/s Vibrant Infratel was to invest its money, it having paid by different instalments amount of over Rs. 1.2 crores to the petitioner. The conjoint effect of the two agreements, the latter dated 1.9.2011 being in the nature of share purchase agreement, was that the bank accounts of T& S Logistics were to be operated jointly and complainant was to be put in the position of nominee director. It is stated that T& S Logistics was expected to collect Rs. 15.26 crores as outstanding debts owed to it by various persons and though money on that account was realized by the petitioner and his associates, the same was not accounted by being deposited in the account of the company. It is stated that the intention of the petitioner was dishonest right from inception as the control over T& S Logistics was never made over in terms of the agreements and, instead, notice was served in breach of the commitments made by the above mentioned agreements removing the first informant from the position of nominee director. The most telling circumstance presented as incriminating against the petitioner is that he had continued to receive payments from Vibrant Infratel Pvt. Ltd. in terms of the two agreements though being privy to and consequently withholding the crucial information from the first informant that T& S Logistics was involved in proceedings of winding up in the Company Court, in the wake of statutory notice issued by its creditors on 5.10.2011, the company petition having been filed on 27.2.2012 leading eventually to winding up order dated 17.1.2013.

5. In the facts and circumstances which have come to the fore through the investigation carried out thus far, it cannot be said that the allegations against the petitioner in the FIR are unfounded or that the dispute is purely civil in nature. The above noted factual matrix reveals that the criminal intention attributed to the petitioner is based on conduct which requires proper investigation.

6. It is pertinent to add here that the case at hand is not an isolated one involving the petitioner as an accused. It was conceded at the bar, during the course of arguments by his counsel, that in proceedings emanating from investigation by Serious Fraud Investigation Office (SFIO), the petitioner is facing prosecution concerning acts of commission and omission involving affairs of the same company i.e. M/s T& S Logistics.

7. In above facts and circumstances, this court agrees with the view taken by the court of sessions in the order dated 30.3.2017 and, thus, rejects the prayer for release of the petitioner on anticipatory bail.

8. The petition is dismissed.

R.K.GAUBA, J.

MAY 23, 2017
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