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

+ **BAIL APPLN. 1597/2016**

ANIL KUMAR SETHI

..... Petitioner

Through: Mr. Sudarshan Rajan, Mr. Arjun
Gadhoke, Mr. Ghanshyam Bhati &
Mr. Karanjot Singh, Advocates.

versus

STATE

..... Respondent

Through: Mr. Rajat Katyal, APP along with SI
S.K. Gupta, PS-Subzi Mandi, for the
State.
Mr. Kirti Uppal, Senior Advocate
along with Mr. Manish Bansal &
Mr. Harsh Kumar, Advocates for the
complainant.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

01.03.2017

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The petitioner seeks anticipatory bail apprehending arrest in case FIR No.83/2015 under Section 409 IPC registered at PS – Subzi Mandi.

The case against the petitioner is that he was posted as an Ahlmad in the Court of the then Additional District Judge Sh. I.S. Mehta. He was having dominion over the case file being Civil Suit No.305/1994 titled *Prithvi Raj Manatala Vs. Tejwant Singh* in his official capacity. During the

execution proceedings, the complainant applied for certified copy of the record pertained to the said case but the application was returned on the ground that the case file of the civil suit and the execution were not available. According to the complainant, the petitioner/ accused then contacted the complainant and demanded money for supply of unofficial copy of the said file. The complainant apparently made an application under the RTI Act, and not satisfied with the response received to the said application, preferred an appeal. The appellate authority sounded the alarm bell in view of the allegations made by the complainant. The allegation made by the complainant, as found in the FIR, inter alia, is that the complainant received a phone call of the accused made by the accused from his mobile phone number on the mobile phone of the complainant and he demanded money to give the unofficial copy of the file and the complainant intimated this fact to Mr. Girish Kathpalia, the then learned ASJ, Tis Hazari Courts, Delhi.

The submission of learned counsel for the petitioner is that the petitioner does not dispute the fact that he had made the phone calls to the complainant from his mobile phone to the mobile phone of the complainant. Learned counsel submits that these calls were made in the presence of the Superintendent concerned since the complainant had made a complaint with regard to the case file going missing. Learned counsel submits that the alleged demand for money was not reported by the complainant at the earliest, and in any event, an inquiry was launched into the said aspect but found no wrongdoing on the part of the petitioner.

Learned counsel for the petitioner submits that the petitioner has retired after rendering 36 years of service and he has not even been paid his

retiral benefits and if he is put into custody the petitioner would be highly prejudiced.

Having heard learned counsel for the petitioner, perused the FIR and the orders passed by the learned ASJ dismissing the two anticipatory bail applications moved by the petitioner earlier and perused the status report, I am not inclined to grant any protection to the petitioner at this stage. It appears that the petitioner was having dominion over the case file of the case noted above at the relevant time when the same went missing. The FIR has been registered under Section 409 IPC and the same is not under the provisions of the Prevention of Corruption Act. Therefore, the issue is not whether the demand was made by the petitioner from the complainant, or not. The fact that the petitioner had made contact with the complainant on his mobile phone is not even in dispute. In these circumstances, the allegations made by the complainant that the petitioner had offered to provide a copy of the case file which has gone missing, cannot be lightly brushed aside. The case is still at a preliminary stage and custodial interrogation of the petitioner may be necessary to unearth the crime and trace the missing file.

The bail application is, accordingly, dismissed.

VIPIN SANGHI, J

MARCH 01, 2017

B.S. Rohella