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

\+ BAIL APPLN. 1067/2017

ANITA .....Petitioner

Through: Mr.Abhimanue Shrestha, Advocate.

versus

STATE GOVT OF NCT OF DELHI .....Respondent

Through: Mr.Kewan Singh Ahuja, APP for the State.
Counsel for the complainant.
(Appearance not given)

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

<u>O R D E R</u>

% **18.07.2017**

<u>BAIL APPLN. 1067/2017</u>

1. By filing this bail application, the petitioner is seeking bail in case FIR No.255/2012 under Section 420/463/465/468/471/120-B IPC, PS Madhu Vihar.

2. Mr.Abhimanue Shrestha, Advocate for the petitioner submits that the petitioner is in custody since 24th May, 2017. She is wife of the main accused Dinesh Kumar and is a house-wife.

3. Learned counsel for the petitioner further submits that though shown as Director of the company, infact she was not responsible for the affairs of the company. The petitioner as well her husband Dinesh Kumar both are in custody since the date of arrest. The petitioner has resigned as Director of

the Company about 1½ years prior to the registration of FIR in question. The FIR was registered in this case on 20th August, 2012 whereas she has been arrested on 24th May, 2017 i.e. after five years of the registration of the case and she was not required for custodial interrogation. Learned counsel for the petitioner has further contended that the petitioner is 56 years old lady and is suffering from various ailments and has been arrayed as an accused by the complainant with malafide intentions.

4. Mr.Abhimanue Shrestha, Advocate for the petitioner has submitted that the criminal complaint is the reproduction of the company petition filed before the Company Law Board. The Criminal Complaint No.204/2011 was filed by the complainant before the Metropolitan Magistrate, Karkardooma Courts, Delhi with an application under Section 156(3) Cr.P.C. only after DD No.60-B at PS Madhu Vihar was got recorded by the company realising that the cheques lost were infact stolen by the complainant. Learned counsel for the petitioner has submitted that the petitioner being wife of the accused Dinesh Kumar has been named only to harass her knowing fully well that she was no more Director of the company. He has prayed for grant of bail to the petitioner in view of the role attributed to her.

5. On behalf of State as well as the complainant, it has been submitted that the application seeking anticipatory bail has already been dismissed by the learned ASJ as well as by this Court. A settlement had taken place between the parties and pursuant to that settlement, W.P.(Crl.) No.807/2013 was filed before this Court praying for quashing of the FIR but the said writ petition was dismissed vide order dated 17th January, 2017 for the reason that terms and conditions of the settlement were not complied with by the petitioner and her husband Dinesh Kumar.

6. Despite the fact that W.P.(Crl.) No.807/2013 remained for a considerable time, it was dismissed vide order dated 17th January, 2017 noting that there are clear allegations of forgery and fabrication of documents by the petitioners. It was also noted that the terms of the settlement i.e. payment of Rs.44 lacs plus 8% interest though matured, was not complied with by the petitioners in W.P.(Crl.) no.807/2013.

7. During hearing, learned counsel for the petitioner could not dispute that the petitioner is a signatory to the MOU entered into with the complainant. It is not disputed that the parties entered into a settlement and payment of Rs.44 lacs with interest @ 8% was to be made to the complainant/respondent No.2. The W.P.(Crl.) No.807/2013 was dismissed on 17th January, 2017 noting that the FIR disclosed commission of cognizable offence and that the terms of the settlement had not been complied with.

8. Taking into consideration all the facts of the case and noting that the petitioner is a woman and had been in custody since 24th May, 2017 and the role attributed to her, she is admitted to bail on her furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of learned Trial Court subject to the following conditions:-

(i) The petitioner shall deposit Rs.10 lacs with the Registrar General of this Court within a period of four weeks from the date of his order, which shall be kept in the form of FDR initially for a period of one year with auto renewal facility.

(ii) The amount so deposited shall be subject to the outcome of the decision in Complaint Case No.204/2011.

(iii) The petitioner shall not leave the country without the permission of the Court.

(iv) The petitioner shall surrender her passport before the learned Trial Court.

9. In case, she is not holder of any passport, an affidavit to that effect shall be filed before the learned Trial Court.

10. The bail application is allowed.

11. As prayed, copy of the order be given dasti to learned counsel for the parties.

Crl.M.B.No.1053/2017 (interim bail)

Dismissed as infructuous.

PRATIBHA RANI, J.

JULY 18, 2017
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