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

+ **BAIL APPLN. 1186/2017**

NIKESH GUPTA

..... Petitioner

Through: Ms.Meenakshi Arora, Sr.Advocate with
Mr.Sachin Dev Sharma and Mr.Rakesh
Sharma, Advocates

versus

STATE OF DELHI

..... Respondent

Through: Mr.Ashish Dutta, APP
Mr.Vijay Kumar Aggarwal, Advocate with
Mr.Neeraj Kumar, Advocate for the
complainant

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **17.08.2017**

The petitioner seeks bail in anticipation of his arrest in connection with FIR No.62/2017 dated 10.02.2017 (P.S.Vasant Kunj South) instituted for the offence under Section 409 IPC.

The petitioner is alleged to have introduced one Prakash Gupta, a co-accused to the complainant for the purposes of facilitating him in selling 6 kgs of gold bars which were in his possession. Aforesaid Prakash Gupta collected the gold bars from the complainant for selling the same and later informed the complainant that he had sold it and has accepted money in cash from the purchaser, which shall be paid to the complainant. Before the amount in cash could be returned to the complainant, aforesaid Prakash

Gupta informed the complainant that he has been robbed of all the money which he was carrying.

From the records, it appears that the gold bars were entrusted to Prakash Gupta and not to the petitioner. But, in the FIR, the complainant has alleged that when the aforesaid fact of robbery was communicated to the petitioner, he is said to have told him that Prakash Gupta was in possession of his money also, which too has been robbed.

There appears to be some connection between the petitioner and co-accused Prakash Gupta.

Ms.Meenakshi Arora, learned senior counsel, while canvassing the case of anticipatory bail of the petitioner, submitted that there is no entrustment to the petitioner and that even the source of procurement of gold by the complainant has not been explained. She has further submitted that the occurrence leading to the registration of this case took place sometimes on 07.12.2016 but the complaint regarding the same was lodged on 07.01.2017. The formal FIR was drawn up only on 13.02.2017. There is no explanation with respect to such delay.

The other limb of argument of Ms.Meenakshi Arora is that despite the petitioner having played a limited role of introducing co-accused Prakash Gupta to the complainant, he has been participating in the investigation and custodial interrogation, that also for the purposes of recovery of the gold or money, ought not to be the purpose of grant or rejection of bail.

Mr.Vijay Aggarwal learned counsel appearing for the complainant however has drawn the attention of this Court to an order dated 24.07.2017 passed in Bail Application No.1230/2017 whereby the prayer for anticipatory bail of co-accused Prakash Gupta has been rejected. He has

further submitted that it was only on the instruction of the petitioner that the gold bars were entrusted to Prakash Gupta, the co-accused. He further submits that the petitioner had introduced Prakash Gupta to the complainant as his partner/business associate.

Taking into consideration the fact that the anticipatory bail of co-accused has been rejected on 24.07.2017, this Court is not inclined to exercise its jurisdiction for grant of anticipatory bail to the petitioner. However, this shall not be construed as rendition of any opinion on the merits of the case, in the event of the petitioner applying for regular bail.

The anticipatory bail application is thus dismissed with the aforesaid observations.

Dasti.

ASHUTOSH KUMAR, J.

AUGUST 17, 2017

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