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

+ BAIL APPLN. 1176/2017

SH. G PURSHOTTAMPetitioner

Through: Mr. Munnipalle Sowri Dev, Advocate.

Versus

CBIRespondent

Through: Ms Rajdipa, SPP for CBI with Ms. Kriti Handa, Mr. Philomon Kani, Mr. Vignaraj Pasayat and Ms. Karnika Singh, Advocates.

+ BAIL APPLN. 1245/2017

S SUBASHPetitioner

Through: Mr. Santosh Kumar, Advocate.

versus

CBIRespondent

Through: Ms Rajdipa, SPP for CBI with Ms. Kriti Handa, Mr. Philomon Kani, Mr. Vignaraj Pasayat and Ms. Karnika Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

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ORDER

12.10.2017

1. By this present petition filed under Section 438 Criminal Procedure Code (hereinafter referred as Cr.P.C) the petitioners seeks Anticipatory Bail in RC No. 05 (A)/2017/CBI/AC-III/New Delhi under Section 120-B IPC, Section 7,8,12,13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 (herein referred as PC, Act) registered at New Delhi, Police Station- AC- III against Lt. Col R.S Moni & Others by CBI Anti-Corruption-III, New Delhi.

2. The brief and necessary facts of the case are that the case in hand is a case of bribery to secure favourable posting. The petitioners are Central Government employees and are employed with Military Engineering Service (MES) under the Ministry of Defence. The petitioners entered into a criminal conspiracy to procure favourable transfer/posting on payment of illegal gratification. In furtherance of said criminal conspiracy, the petitioner Subash, who is a Barrack Store Officer, paid a sum of Rs. 5 lacs with the help of Purshottam through hawala transaction to Gaurav Kohli out of which 2 lacs was transferred to Lt Col. R.S. Moni for obtaining favourable posting order for Subash BSO.
3. Contention advanced by Mr. Santosh Kumar, learned counsel for the petitioner Subash is that the petitioner has been falsely implicated in alleged case of bribery to secure favourable posting; that the petitioner received his posting order to Porbander (Gujarat) in the month of April/May; that the petitioner submitted an application through proper channel for change of his posting on children's education ground; that the CBI officials conducted a search in his residence as well as in the office of the applicant but no cash or any other incriminating material was seized by the CBI officials during the search; that the petitioner fully co-operated with the CBI officials during the search and investigation.
4. Mr. Munnipalle Sowri Dev, learned counsel for the petitioner G. Purushottam contended that the CBI has raided the premises of the petitioner and amount of 3lacs was seized; that all the property documents recovered in searches/raids relate to the year 2006 and

that the petitioner is ready to account for each and every single penny recovered from the premises; that the CBI has not arrested the petitioner so far as his custodial interrogation was not necessary. He further contended that the FIR does not disclose any motive or reward with respect to the role of the petitioner; that his previous application for anticipatory bail u/s 438 was dismissed by the District and Sessions Judge Patiala House Courts, New Delhi.

5. Per contra, the learned SPP for CBI contended that the investigation was commenced on the basis of an information received; that the information was fortified by the surveillance of the phones of the accused persons which clearly prove that the petitioner Subash handed over the bribe money to the petitioner G. Purushottam thus it is for this reason that custodial investigation assumes importance.
6. I have heard the learned counsel for the parties and have also perused the material on record.
7. It has been revealed during the investigation that the petitioners were actively involved in the commission of the offence and the same could be revealed from the telephonic interceptions which show that the petitioners were in regular touch with other co-accused for obtaining a favourable posting order for the petitioner Subash. The petitioner Purushottam facilitated the delivery of illegal gratification from the petitioner Subash to the other co-accused. Moreover, it has been revealed from the investigation that a sum of 3lacs, part amount of the bribe money, has been seized from the custody of the petitioner G. Purushottam.

8. In my opinion, merely because the petitioners are government servants/officials they do not enjoy any immunity from arrest if they have committed an offence.
9. Keeping in view the aforesaid discussion, the facts and circumstances and the nature and gravity of the alleged offence, this Court is not inclined to grant the anticipatory bail to the petitioner in this case. Hence the petition stands dismissed.
10. Before parting with the above order, it is made clear that nothing observed herein shall have any bearing upon the merits of the case during trial.
11. Accordingly the petition is disposed of.

SANGITA DHINGRA SEHGAL, J.

OCTOBER 12, 2017

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