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

+ **BAIL APPLN. 1269/2016**

RAMBIR KAUSHIK

..... Petitioner

Through: Mr. K.K. Manan, Senior Advocate
along with Ms. Anjali Rajput,
Ms. Shweta Sain, Mr. Abheeshk
Bhagat & Ms. Devyani Khosla, Adv.

versus

STATE (THE NCT OF DELHI)

..... Respondent

Through: Mr. Mukesh Kumar, APP along with
Inspector Vivek Pathak, PS-Crime
Branch, for the State.
Ms. Rebecca M. John, Senior
Advocate along with Mr. Vishal
Gosain & Mr. Nikhil Ahuja, Adv for
the complainant.

+ **BAIL APPLN. 2269/2016**

POOJA KAUSHIK

..... Petitioner

Through: Mr. K.K. Manan, Senior Advocate
along with Ms. Anjali Rajput,
Ms. Shweta Sain, Mr. Abheeshk
Bhagat & Ms. Devyani Khosla, Adv.

versus

STATE (THE NCT OF DELHI)

..... Respondent

Through: Mr. Rajat Katyal, APP for the State.
Ms. Rebecca M. John, Senior
Advocate along with Mr. Vishal
Gosain & Mr. Nikhil Ahuja,
Advocates for the complainant.

+ **CRL.M.C. 2354/2016 and CrL.M.A. No.9963/2016**

SATISH SHARMA

..... Petitioner

Through: Ms. Rebecca M. John, Senior

Advocate along with Mr. Vishal
Gosain & Mr. Nikhil Ahuja, Adv.

versus

STATE & ANR

..... Respondents

Through: Mr. Mukesh Kumar, APP along with
Inspector Vivek Pathak, PS-Crime
Branch, for the State.

Mr. K.K. Manan, Senior Advocate
along with Ms. Anjali Rajput,
Ms. Shweta Sain, Mr. Abheeshek
Bhagat & Ms. Devyani Khosla,
Advocates for respondent No.2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

22.02.2017

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1. The petitioners in BAIL APPLN. 1269/2016 Rambir Kaushik and in BAIL APPLN. 2269/2016 Pooja Kaushik have moved the aforesaid bail applications under Section 438 Cr.P.C. to seek anticipatory bail in case FIR No.49/2016 registered under Sections 420/ 468/ 471/ 506/ 34 IPC at PS – Pul Prahlad Pur.

2. CrI.M.C. No.2354/2016 has been preferred by the complainant, whose complaint has led to registration of the aforesaid FIR, to seek cancellation of bail granted by the learned Sessions Court in Bail Application No.2495 moved by respondent No2/ Santosh Kaushik, who is the wife of the aforesaid Rambir Kaushik and the mother of the aforesaid Pooja Kaushik.

3. It appears that initially on the complaint of Pooja Kaushik, FIR No.125/2014 registered under Section 498A/ 406/ 354/ 34 IPC, which was

4

subsequently converted to Section 376 IPC against the complainant in case FIR No.49/2016 and his family members. During the course of investigation in the said case, allegations were made that the petitioners and Santosh Kaushik have submitted forged & fabricated bills in respect of clothing and jewellery articles, as also documents to show the source of funds allegedly spent by the petitioner Rambir Kaushik at the time of marriage of Pooja Kaushik with Amit Sharma - the son of the complainant/ Satish Sharma. On that premise, the complainant Satish Sharma made a complaint before PS - Pul Prahlad Pur. Since no case was registered, he invoked Section 156(3) Cr.P.C., which application was dismissed by the learned Magistrate. However, in revision, the learned ASJ directed registration of the FIR and its monitoring by the learned Magistrate. Consequently, FIR No.49/2016 came to be registered against the accused Rambir Kaushik, Pooja Kaushik and Santosh Kaushik.

4. Mr. Manan, who appears for the accused in all these cases, has submitted that the originals of the bills were submitted to the I.O., who at the relevant time was Sub-Inspector Kala Joshi. According to the petitioners, SI Kala Joshi did not prepare a seizure memo and did not acknowledge receipt of the original bills. The petitioners claim that despite the originals of the bills having been taken by the I.O., they were not filed along with the charge-sheet in case FIR No.125/2014. It is further submitted that the I.O. had misled the accused Pooja Kaushik into writing - in her own handwriting, several documents, which she did innocently and the same are now being used by the I.O., in connivance with the complainant, to allege forgery and fabrication of the bills and other documents by the petitioners/ accused.

5. Mr. Manan further submits that the petitioners/ applicants have already joined investigation and they are even now ready & willing to join the investigation. He submits that the accused Pooja Kaushik is ready & willing to appear before the learned Magistrate to provide her specimen handwriting and signatures, for which purpose the case is fixed tomorrow. He further submits that so far as Santosh Kaushik is concerned, she has no role to play, and she has unnecessarily been dragged into the case.

6. The bail applications have been opposed by the State and complainant, who is also the petitioner in CrI.M.C. No.2354/2016. Ms. Rebecca M. John, learned senior advocate, who appears on behalf of the complainant, has drawn the attention of the Court to the handwritten communication given by Pooja Kaushik on 02.08.2014 to the I.O. enclosing photocopy of several bills, many of which have been found to be forged and fabricated upon inquiry conducted by the I.O. The said forwarding communication dated 02.08.2014 has been exhibited as Ex. PW-2/D in the ongoing trial arising out of FIR No.125/2014 during the cross examination of the petitioner Pooja Kaushik.

7. She has also drawn the attention of the Court to the fact that notices under Section 91 Cr.P.C. were issued to the vendors - who had allegedly issued the bills (copies whereof were provided by Pooja Kaushik). It is pointed out that the notices issued to the vendors by the I.O. were also signed by the accused Pooja Kaushik. The photocopies of the bills provided were also signed in original by Pooja Kaushik, and she also claimed that she shall submit the original bills in the Court. The response from the vendors have also been adverted to, to submit that they have stated that some of the

bills have been tampered with and the amounts inflated. In respect of one of the vendors, namely Explore Jewellers, the response of the vendor is that the vendor is not engaged in the jewellery business at all, and is running a medical store with the name Explore Medical Accessories. It is also pointed out that in one such instance, the date on the bill has been manipulated so as to ante-date it. The same actually pertains to a transaction undertaken after registration of FIR No.125/2014, i.e. after the parties had parted ways.

8. To indicate the role of the petitioner Rambir Kaushik, and his wife Santosh Kaushik, it is pointed out that they have claimed to have entered into an agreement to sell their land for an amount of Rs.11 Lakhs, to a third party, whereas the said land did not even belong to Santosh Kaushik.

9. Ms. John has also drawn the attention of the Court to the order dated 19.01.2017 passed by the learned MM – 08 (SE), Saket Courts, who is monitoring the investigation in the FIR No.49/2016, wherein the I.O. has stated that the accused persons are not cooperating in the investigation, by taking advantage of the protection order passed by this Court in the present bail applications. Due to the said non-cooperation, investigation in the case has been delayed.

10. Mr. Manan submits that the petitioners have joined the investigation and receipts in this regard have been issued by the I.O. from time to time.

11. The reason why an accused is called for investigation is to seek his/her cooperation and meaningful participation. If an accused were to join the investigation but not cooperate therewith, it would be a purposeless exercise. In the present case, prima-facie, the submission of the petitioners that the

original bills were tendered to the erstwhile I.O. Kala Joshi and that she had introduced forged and fabricated bills on behalf of the petitioners by misleading the petitioner Pooja Kaushik into writing self-incriminating documents, cannot be accepted at this stage. Pooja Kaushik is a qualified person, and so are her parents.

12. It, therefore, appears that the allegations contained in the FIR in question are rather serious and weighty, and the custodial interrogation of the petitioners/ bail applicants is essential to effectively carry out investigation in the case. The original documents have to be recovered and the alleged forgery fabrication needs to be unravelled. Similarly, the grant of protection to Santosh Kaushik does not appear to be justified, since, there is at least one document which she would need to explain, relating to the claim of ownership in respect of a parcel of land which, apparently, did not belong to her and in respect whereof, she claims to have entered into an agreement with a third party Shiv Kumar.

13. The bail applications are, accordingly, dismissed, and the criminal miscellaneous case seeking cancellation of anticipatory bail to the accused Santosh Kaushik is allowed. The order dated 01.06.2016, granting anticipatory bail to Santosh Kaushik, passed by the learned ASJ is set aside.

14. Dasti.

VIPIN SANGHI, J

FEBRUARY 22, 2017

B.S. Rohella