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

+ CRL.M.C. 4492/2016 & CrI.M.A. 18796/2016 (stay)

VINOD KUMAR

..... Petitioner

Represented by: Dr. Ashutosh, Mr. Dalip Singh,
Advs.

versus

STATE & ANR

..... Respondent

Represented by: Mr. Amit Ahlawat, APP with
SI Shri Gopal PS Shakarpur.
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
12.01.2017

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1. By the present petition the petitioner seeks modification of the order dated 4th December, 2015 granting anticipatory bail to him to the extent that the FDR of ₹4 lakhs be directed to be released to him so that he can pay the arrears of maintenance to his wife for whose benefit the FDR had been deposited.

2. The order granting anticipatory bail to the petitioner reads as under:

“Learned Addl. PP for the State opposed the bail application on the ground that first bail application of the appellant has already been dismissed vide order dated 21.11.15 and second bail application is not maintainable on this ground. Learned counsel for the applicant submits that after dismissal of the first bail application, there were serious threats on behalf of the complainant to spoil the career of the brother of the applicant.

He further submits that there are serious threats to spoil the life of the applicant. It is further submitted that applicant is a law abiding citizen. He further submits that applicant also approached the police station on 18.11.15 whereby a DD No.11A was registered wherein he humbly submitted to deposit the entire stridhan articles whatever is in his possession but the police is not ready to accept. IO verified from the police station and submits that DD No.11B was issued/ registered.

It is further submitted that the applicant is influential person and is in position to influence the investigation. It is further submitted on behalf of IO that he has to further investigate the matter, though, there is no contention for custodial interrogation on behalf of the prosecution.

During further arguments, learned counsel for the applicant further submits that to show bonafide on behalf of applicant, applicant proposes to deposit ₹4 lakhs without prejudice to the rights and contentions of the applicant in the shape of the FDR with concerned Mahila Court.

Therefore, this Court is of the considered view that let the proposal made by the learned counsel for the applicant be accepted and let amount of ₹4 lakhs shall be deposited by the applicant in the concerned Court in the shape of FDR in favour of Mahila Court, Delhi, within six weeks from today. FDR should be issued by nationalized bank. However, interest accrued thereupon shall be released after every 2 years to the applicant/ husband and for this purpose applicant/ husband shall apply before the concerned Court. FDR must be a minimum period of 2 years. The FDR shall have automatic renewal facility or clause. Amount of FDR shall be subject to the final outcome of the case and as per directions passed by the concerned Court. Applicant is further directed to deposit the admitted list of stridhan/ dowry articles with the police.

Subject to compliance of all the conditions mentioned in the present bail application and applying the law laid down in case titled as Arnesh Kumar V. State of Bihar & Anr. 2014 (3) JCC 1529, present bail application is hereby allowed and it is hereby directed that in the event of arrest of applicant,

applicant shall be released on bail on his furnishing personal bond in the sum of ₹20,000/- with one surety in the like amount to the satisfaction of the IO/SHO/MM/Link MM/Duty MM subject to following conditions.

- a) The applicant shall join the investigation with the IO as and when directed by the IO,*
- b) The applicant shall not interfere with the investigation of the case and shall not contact the complainant in any manner whatsoever,*
- c) The applicant shall not tamper with evidence in any manner whatsoever and shall appear before the IO/ Court concerned as and when directed,*
- d) That if there is any passport of the applicant, the applicant shall surrender the same with the IO or before the concerned Court. If passport is not available with the applicant, then the applicant shall not be entitled to apply his passport without prior permission of the concerned Court.*
- e) Applicant is directed to join the investigation with the IO on 10.12.2015, 16.12.2015, 23.12.2015 and 30.12.2015 from 5 PM to 8 PM.*
- f) That IO is directed to record DD entry regarding arrival and departure of the accused/ applicant in the police station on the above-said dates.*
- g) That accused shall not carry his mobile phone with him during his visits to the Police station for investigation on the above-said dates.*
- h) The applicant shall be interrogated or investigated by the IO in accordance with law.*

It is made clear that in case of non-compliance of the conditions mentioned hereinabove by the applicant, the bail application shall be deemed to be dismissed. IO shall be at liberty to initiate appropriate steps, in case of non-compliance of the conditions mentioned hereinabove.

Observations made in this bail order shall have no effect on the merits of the case as merits of the case have to be

decided according to the evidence led by the parties during the trial of the case.”

3. From a perusal of the order it is evident that it was on the proposal of the petitioner that he would deposit ₹4 lakhs in the shape of an FDR with the concerned Mahila Court without prejudice to his rights and contentions that the Court granted him anticipatory bail. At the stage of making this offer it was nowhere reflected that the said amount of ₹4 lakhs or the interest accrued thereon was to be adjusted as maintenance. No doubt, ultimately if the matter is settled between the parties all these deposits will be taken into consideration but at this stage when the trial in FIR No.131/2015 under Sections 498A/406/34 IPC registered at PS Shakarpur and various other litigations between the parties are pending, it cannot be said that the said amount of ₹4 lakhs be permitted to be adjusted towards the monthly maintenance to be paid to the respondent No.2 and the minor child. This Court finds no reason to modify the order.

4. Petition and application are dismissed.

MUKTA GUPTA, J.

JANUARY 12, 2017
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