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

+ **BAIL APPLN. 1658/2017**

GARIMA JAIN

..... Petitioner

Through: Ms.Lata Krishnamurti, Mr.Chirag
Madan & Mr.Ajay Awasthi,
Advocates

versus

STATE OF NCT, DELHI

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for the
State with SI Rajesh Kumar, PS
Barakhamba Road

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

29.08.2017

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1. By way of this application filed under Section 439 Cr.P.C. the petitioner is seeking regular bail in case FIR No.77/2015, under Section 420/34 IPC, PS Barakhamba Road.

2. Learned counsel for the petitioner has submitted that the petitioner is proprietor of an un-registered business concern M/s. Takeoff Worldwide Inc. The concern is engaged in facilitating Information Technology (IT) professionals based in India to apply for and obtain Visa or Green Card from the USA. For this purpose the company enters into an agreement with clients who are only IT professionals fulfilling the criteria laid down by United States Citizenship and Immigration Services (USCIS) in its employment based immigration second preference eb2 notification. The petitioner has annexed the copy of the notification and specimen of the agreement as Annexure 'A' & 'B'.

3. As per the said agreement it was for the client/complainant to produce the final refusal of the USCIS before being entitled to any refund.

4. She was never absconding and as and when she came to know about the complaint being made against her she reported to the concerned police officer on 16th September, 2014 informing that M/s Take Of Worldwide Inc. was an un-registered proprietorship concern assessed to Income Tax and not a company. She even informed her new office address after changing the office.

5. Learned counsel for the petitioner has submitted that considering that petitioner is in custody for the last about one month and the entire case is based on documentary evidence which is already in the possession of the investigating agency, her laptop has been seized and all the passwords pertaining to her e-mail have also been given by her along with her bank account details, she may be released on bail as she is a women and her mother is dependent on her. The breach of agreement, if any, between the petitioner and the complainant could give rise to a civil dispute to be resolved in terms of the agreement.

6. On behalf of the State, prayer for bail has been opposed on the ground that she has cheated number of persons in identical manner. The amount charged from the clients was transferred to the account of the petitioner and her associates and co-accused have not been arrested as they are evading arrest. She was also arrested on the basis of the secret information and her one day police remand was sought. During police custody her laptop was seized from her office from 29th July, 2017. As per the status report a case FIR No.261/10, under Section 420/467/468/471 IPC, PS K.N.Katju Marg, New Delhi has also been registered against her by her husband.

7. In the instant case even as per FIR the petitioner after allegedly charging ₹1,80,000/- from the complainant failed to facilitate visa for the

complainant or to refund the money charged from him for the services under the agreement.

8. Considering that the petitioner is a lady and in custody for the last about one month and has already been subjected to custodial interrogation, her laptop has already been seized and bank details furnished, without making any observation whether the breach of the terms of the contract in this case gives rise to civil liability or a criminal offence i.e. cheating, the petitioner is admitted to bail on her furnishing a personal bond in the sum of ₹1,00,000/- with one surety of the like amount to the satisfaction of the learned Trial Court/link Court, subject to the following conditions:

- (i) She shall deposit sum of ₹1,80,000/- with the Registrar General of this Court within a week which shall be kept in the form of FDR, initially for a period of one year with auto-renewal facility.
- (ii) This above deposit shall be subject to the outcome of the trial in criminal case.
- (iii) The petitioner shall not leave the country without the permission of the Court.
- (iv) She shall deposit her passport with the learned Trial Court which shall be released to her as and when the permission to travel abroad is granted by the learned Trial Court.

9. The bail application is allowed in the above terms.

10. Copy of this order be sent to the Jail Superintendent for information.

11. Order dasti.

PRATIBHA RANI, J.

AUGUST 29, 2017

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