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

\+ BAIL APPLN. 1932/2017

RAVI KANT TIWARI ..... Petitioner

Through: Mr.Satish Pandey, Mr.Abdul Kadir & Ms.Vimlesh Sharma, Advocates

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Ms.Kusum Dhalla, APP for the State with ASI Vijay Dutt, PS Pahar Ganj Mr.Praneet Das, Advocate for the Complainant

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

O R D E R

% **22.09.2017**

CRL.M.A. 15975/2017

1. Exemption allowed, subject to all just exceptions.

2. The application is disposed of.

BAIL APPLN. 1932/2017

1. By way of this bail application filed under Section 439 Cr.P.C., the petitioner Ravi Kant Tiwari is seeking bail in FIR No.0104/2017, registered under Section 408/420/468/471/34 IPC, at Police Station Paharganj.

2. Learned counsel for the petitioner has prayed for the release of the petitioner Ravi Kant Tiwari on bail on the ground that the petitioner is innocent and falsely implicated in this case. There is inordinate delay in getting the FIR registered. He has fully cooperated during investigation and is further willing to cooperate, if required. He has deep roots in the society

as his child is studying in a school in Delhi and his wife is also living in Delhi and his permanent address is also known to the complainant.

3. Learned counsel for the petitioner has referred to the bail orders passed by the Courts on the three bail applications filed from time to time –

(i) The first bail application was filed before the filing of the charge-sheet which was dismissed on 25th July, 2017 on the following grounds:

(a) The matter is still under investigation.

(b) The co-accused is yet to be arrested and more money is yet to be recovered.

(ii) The second bail application was filed after the charge-sheet was filed and the same was dismissed by the learned MM on 22nd August, 2017 mainly on the ground that the complainant was yet to be examined.

(iii) The third bail application was filed before the learned ASJ which has been dismissed on 12th September, 2017 on the ground that there is a possibility of petitioner absconding, if he is released on bail.

4. Learned counsel for the petitioner has submitted that all the three bail applications have been dismissed for different reasons. The complainant in the FIR has given the permanent address of the petitioner and his local address is also available on record, hence bail application could not have been dismissed on the ground that he can abscond. It has also been contended that the complainant cannot influence the witnesses as all the documents are already in the possession of the police. There is also no possibility of his jumping the bail as his wife and two school going kids are living in Delhi. It has also been contended that the petitioner being the only bread earner of the family, he may be enlarged on bail to take care of his family as trial is likely to take long time.

5. As per the FIR, the allegations against the petitioner are that he was working with the complainant in his proprietorship concern M/s Arihant Aluminium and was performing the duty of the marketing and sales for about four years prior to lodging of the FIR. Another employee Gaurav Pandey (named as co-accused, but absconding) was also working in the same company for a period of three years prior to registration of FIR. On or about 15th December, 2016, the complainant came to know through M/s Rajender Enterprises that only payment of ₹1,100/- was due whereas as per the complainant the amount was quite big and when all the challans were shown to him, complainant was informed that the same did not bear his signature. From many shopkeepers which included M/s New Bhola Paints and Hardwares, Lajpat Nagar, Delhi, the *modus operandi* was revealed to the complainant that the petitioner and his co-accused used to collect material from the company and by forging the challans they themselves used to sign on behalf of the shopkeepers but sell the material to other shopkeepers and collect the payment from them. The petitioner and his co-accused also used to deposit the challans with forged signatures of the shopkeepers and in that manner the petitioner Ravi Kant Tiwari sold material worth ₹55 lakhs in the marked and realised substantial payment from the shopkeepers. Gaurav Pandey sold material worth about ₹30 lakhs in the same manner. When both the employees were confronted with whatever they had done, they tendered apology and assured to return the amount within two-three months. However, they continued with their illegal activities and in the month of February, 2017 when payment was demanded from M/s Bhola Paints and Hardwares, the complainant was informed that they had not taken any goods on credit nor the challans were bearing their

signatures. Gaurav Pandey also tendered apology and sought time to return the amount but thereafter he absconded. His father who intervened on his behalf is also not reachable.

6. In the status report it is mentioned by the State that during investigation 446 forged challans and slips were produced by the complainant, out of which 252 related to the petitioner Ravi Kant Tiwari. During police remand he got recovered ₹3.5 lakhs from his house and ₹6.5 lakhs were paid by him to the complainant. The accused Ravi Kant has deposited in his accounts amount sometimes ₹40/40 thousand and sometimes ₹30/30 thousand and sometimes ₹60/60 thousand and sometimes ₹65,000 in the SBI, Pahar Ganj, Delhi; Bank of India, Jhandewalan; Dena Bank, Patpad Ganj and HDFC Bank, South Extension, Delhi on different dates. The salary of the accused was only ₹15,000/- per month.

7. In ***State of Gujarat vs. Mohanlal Jitamalji Porwal and Anr.*** AIR 1987 SC 1321, the Hon'ble Supreme Court, while considering a request of the prosecution for adducing additional evidence, inter alia, observed as under:

> *"The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view* ***white collar*** *crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest."*

8. The above referred observations were quoted with approval in ***Ram Narain Popli vs. CBI*** 2003 (3) SCC 641. The Hon'ble Court also observed as under:

> *"Unfortunately in the last fewyears, the country has seen an alarming rise in* ***white collar*** *crimes which has affected the fibre of the country's economic structure. These cases are nothing but private gain at the cost of the public, and lead to economic disaster.*

9. The submissions of learned counsel for the petitioner that while dismissing the earlier three bail applications, different reasons have been given, cannot be a ground to enlarge the petitioner on bail as today the learned counsel for the petitioner has been heard at length about the nature of the allegations against the petitioner. The bank account details of the petitioner cannot be ignored by the Court while considering the prayer for release on bail, inter alia on the ground that he is in custody from 1st June, 2017 and has a family to take care.

10. This Court cannot ignore the fact that offences like cheating and forgery are committed with a cool, calculated and deliberate desire with an eye on personal gain. Merely because the petitioner has spent a few months in jail, cannot be a ground so as to enable him to reap the benefit of his alleged ill-gotten wealth. When the application was dismissed by the learned ASJ on 12th September, 2017 it was specifically recorded that the complainant was yet to be examined. Without waiting for that stage to reach, the petitioner has preferred to approach this Court to seek his release on bail.

11. Taking into consideration that it was not isolated incident but over a long period the petitioner was allegedly indulging in such type of activities,

which are reflected even in his bank account details, he cannot be enlarged on bail just because of delay in lodging the FIR.

12. In the FIR it is explained that on coming to know about the activities of the petitioner and his co-accused, the petitioner and the co-accused tendered apology and assured to return the amount but continued with the same *modus operandi* which compelled the complainant to ultimately get the FIR registered.

13. The effect of delay, if any, in the registration of the FIR has to be considered by the learned Trial Court at an appropriate stage and cannot be made a ground for releasing the petitioner on bail.

14. The bail application is dismissed.

PRATIBHA RANI, J.

SEPTEMBER 22, 2017
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