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

+ **BAIL APPLN. 298/2018**

SUMIT KOTHARI

..... Petitioner

Represented by: Ms. Rebecca M. John, Sr. Adv.
with Mr. Manoj Singh, Adv.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP
with SI Naveen PS Subzi
Mandi.
Mr. Shashank, Adv. for
company/ R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

22.02.2018

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By this petition the petitioner seeks bail in case FIR N0.3/2018 under Section 174(A) IPC registered at PS Subzi Mandi.

The above-noted FIR was registered pursuant to a direction passed by the learned Metropolitan Magistrate after the petitioner was declared a proclaimed offender in proceedings under Section 138 of the Negotiable Instruments Act instituted by the respondent No.2.

A perusal of the status report reveals that initially the complaint was filed before the Court at Delhi and efforts were made to serve the petitioner but he could not be served. Thereafter in view of the decision of the

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Supreme Court in Dasrath Rupsingh Rathod's case the complaint was transferred to Maharashtra and again back to the learned Metropolitan Magistrate at Delhi in the year 2011. Since 2011 repeated bailable warrants followed by non-bailable warrants were issued against the petitioner but the same could not be executed. After the petitioner was declared a proclaimed offender by the learned Trial Court in the complaint case filed by the respondent No.2 under Section 138 of the Negotiable Instruments Act on 21st December, 2017 and the present FIR was registered on 4th January, 2018, the petitioner surfaced and could be arrested.

Learned counsel for the complainant submits that though the father of the petitioner had disowned the petitioner, however seeing that his son has been arrested, father of the petitioner came forward for a settlement and has already made a part-payment.

Learned APP for the State opposing the bail application submits that though the petitioner has been in custody for one month and 10 days, the presence of the petitioner is required to be secured in both the trial under Section 138 NI Act instituted by the respondent No.2 and the above-noted FIR registered by the respondent No.1/ State.

Learned counsel for the petitioner states that the petitioner will be present for facing trial in both the cases and to show his bona-fide he says that he is ready and willing to deposit any surety bond as this Court directs.

Considering the facts of the case and as the petitioner has been in custody for the last 40 days, this Court deems it fit to grant bail to the petitioner in the above-noted FIR subject to the petitioner furnishing a personal bond in the sum of ₹50,000/- with two surety bonds of the like

amount of which one surety would be the father of the petitioner subject to the satisfaction of the learned Trial Court/ CMM concerned. The petitioner will not leave the country without the prior permission of the Courts concerned and in case of change of his residential address the same will be intimated to the Courts concerned by way of an affidavit.

Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

FEBRUARY 22, 2018

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