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

**Decided on:11<sup>th</sup> October, 2018**

+ CRL.M.C. 577/2015

**KASHMIRI LAL GARG**

..... Petitioner

Through: Mr. Manish Bansal, Advocate

versus

**STATE & ANR**

..... Respondents

Through: Mr. Ashish Dutta, APP for the  
State with Insp. Vijay Kumar

Mr. Mukesh Gupta and Mr. Saurabh,  
Advocate for R-2

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER (ORAL)**

1. The petitioner is the complainant at whose instance first information report (FIR) no.11/2011 was registered on 18.01.2011 by police station Economic Offences Wing of Delhi Police for investigation into offences allegedly committed under Sections 420, 120B of Indian Penal Code, 1860 (IPC). The second respondent is one of the persons whose complicity has been alleged in the said crimes. On his application (Bail application no.1732/2013), a learned single Judge of this court, by order dated 16.01.2015, had granted anticipatory bail in favour of the second respondent taking note of the

submission of the Additional Public Prosecutor, on instructions, from the investigating agency that pursuant to certain earlier orders including order dated 11.08.2014, the petitioner had joined investigation, he having produced the documents which had been called for, he not being required for further investigation. It was also submitted before the court on the said date that charge-sheet in the case was expected to be filed within two weeks.

2. The present petition was filed on 06.02.2015 with the grievance that the court was misled, the allegations against the second respondent are serious in nature, there being need for his custodial interrogation so as to gather all the necessary evidence and also to bring out the role of certain other persons complicit in the crime. The prayer made is for the order of anticipatory bail to be cancelled in exercise of the jurisdiction of this court under Section 439(2) read with Section 482 of the Code of the Criminal Procedure, 1973 (Cr. PC).

3. The submissions of both sides at the hearing brought out that a report under Section 173 Cr. PC proposing closure of the case was submitted by the investigating agency after the order granting anticipatory bail was passed, the cancellation of which is sought by the present petition. The petitioner, the first informant of the case, had resisted the said final report of investigation by a protest petition. It appears that the Chief Metropolitan Magistrate was not satisfied with the investigation that had been carried out and, by her order dated 11.12.2017, accepted the protest petition, rejecting the report of

investigation and issued certain directions for further investigation. It is also brought out that pursuant to the said directions, further investigation was carried out and a fresh report, this time around a charge-sheet was presented. The petitioner again filed a protest petition raising the argument that the matter had not been fully investigated, the role of three persons (namely Prithvi Raj Manaktala, Vineet Gupta and Jitender Gupta) having not been properly probed. The Metropolitan Magistrate, by order dated 11.07.2018, has rejected the said second report as well and has issued directions for further comprehensive investigation, keeping the matter alive on her board.

4. In the given facts and circumstances, it is clear that the petitioner is vigorously pursuing the investigative process by lodging protest petitions and airing his grievance as to the deficiency in the probe before the concerned Metropolitan Magistrate which has been issuing the requisite directions in such regard.

5. But the deficiencies on the part of the investigative agency, if any, by themselves, do not make out a case for cancellation of the bail under Section 439(2) Cr. PC. Going by the observations of the Metropolitan Magistrate in the last effective order dated 11.07.2018, the grievance of the petitioner concerns three individuals other than the second respondent herein. From this, it appears the investigation in so far as the role of the second respondent is concerned has been concluded. Whether or not his custodial interrogation is required is a matter which concerns not the first informant but the investigating agency. The learned single Judge of this court while granting the

anticipatory bail, by order dated 16.01.2015, was conscious of the factual matrix and the nature of offences involved. The discretion which was used judicially cannot be called in question by a petition presented under Section 439(2) Cr. PC.

6. There are no good grounds to cancel the aforementioned bail order dated 16.01.2015.

7. The petition is dismissed.

**R.K.GAUBA, J.**

**OCTOBER 11, 2018**

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