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

\+ BAIL APPLN. 527/2018

SUMAN BOBAL & ORS ..... Petitioner

Through: Mr. Tanveer Ahmed Mir, Adv.with Mr. Faheem Shah, Mr.Vaibhav Suri, Advs.

versus

STATE OF NCT DELHI ..... Respondent

Through: Mr. Ashish Dutta, APP for State with Inspr. Anil Kr., EOW.
Mr. Gaurav Gupta, Adv. with AR Mr. Sarajul Haq Khan, for complainant.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

<u>O R D E R</u>

% **16.03.2018**

Vide the present application, the applicants seek grant of regular bail submitting to the effect that they have been in custody since 16.02.2018 and that the admitted case of the prosecution is that the bank while giving gold loans, values the jewellery 20% lesser than the market rate/face value and gives only 75% finance on that value. Through the written submissions that have been on behalf of the petitioner it has been submitted that the facts alleged to have been put forth as put forth through the first & main charge-sheet dated 27.12.2014 filed against accused persons Ram Prakash, Ashish Kumar Singh and Rajat Sharma indicate that they are the main accused and that accused persons as put forth in supplementary charge-sheet dated 04.08.2017 i.e. Hemant Kr. Bobal, Somnath Bobal, Vishal Bobal, Raja Bobal, Naveen Kumar, Himanshu Singh, Harpreet Singh, Rakesh Bobal. The averments to this effect are not refuted on behalf of the State as submitted by the Investigating Officer. Though through the brief submissions it has been mentioned that the supplementary charge-sheet dated 04.08.2017 has also been filed as against accused persons named Sangeeta Bobal, Suman Bobal, Sarika Bobal, Priya Taneja, Kenny Kedia, Sukhraj Kaur, Yugal Kishore, Naresh Kumar, Sachin Taneja, of whom Sangeeta Bobal, Suman Bobal, Sarika Bobal are the present applicants. The Investigating Officer of the case submits that though these applicants are in custody, the charge-sheets are yet to be filed in relation to them but nevertheless the Investigating Officer affirms the factual position put forth through the brief submissions, put forth in relation to the allegations levelled against the applicant.

The allegations against the applicants thus in relation to Sangeeta Bobal is to the effect that she availed a loan of Rs.67,89,580/- against pledging jewellery to the tune of Rs.18,70,000/- and this was as per valuation of the Ashirwad Jeweller with the FSL report indicating 75% to 80% purity and surrendered on 16.02.2018. The allegations qua Suman Bobal are to the effect that she has availed the loan of Rs.89,39,500/- against pledging jewellery to the tune of Rs.23,45,000/-as per the valuation of the Ashirwad Jeweller qua the purity stated to be of 75% to 80%, as per the FSL report and has surrendered on 16.02.2018. The other applicant Sarika Bobal is stated to have availed loan of Rs.1,40,02,100/- after pledging the jewellery to the tune of Rs. 27,85,000/- as per the valuation report of Ashirwad Jeweller with the purity of 75% to 80% as per the FSL report and she is stated to have surrendered on 16.02.2018.

It has been submitted on behalf of the applicants that the investigation in the matter is complete and each of the applicants is a separate borrower with a separate pledge. *Inter alia* it has been submitted on behalf of the applicants that there are other accused persons similarly situated i.e. Ram Prakash, Ashish Kumar Singh, Rajat Sharma, Naveen Kumar, Kenny Kedia, Sukhraj Kaur, Himanshu Singh, Harpreet Singh, Rakesh Bobal, Raja Bobal & Vishal Bobal who are on bail and that on parity, the applicants are entitled to be released on bail. It has also been submitted on behalf of the applicants that the loans taken by Himanshu Singh, Naveen Kumar, Ram Prakash and Sukhraj Kaur are to the tune of Rs. 10.61 crores and the said fact is also affirmed by the Investigating Officer present in Court. It has further been submitted on behalf of the applicants that the applicant nos. 1, 2 & 3 have availed loans totalling to Rs. 2.97 crores which is also affirmed by the Investigating Officer in reply to a specific Court query. It has however been submitted on behalf of the applicants that the valuation done by Ashirwad Jeweller is a disputed document inasmuch as the admitted case of the prosecution is that FSL has confirmed the jewellery to be in the range of 70% to 85% purity which confirms to BIS Govt. Standards, in relation to which it has been submitted on behalf of the Investigating Officer that the FSL report of 70% to 85% of gold purity is only in relation to some portion of the gold articles, the rest of the alleged gold articles being metals.

Reliance has *inter alia* been placed on the order dated 17.09.2015 in Bail Application No. 731/2015 of the co-accused Naveen Kumar wherein it has been *inter alia* observed to the effect that :

> *"on perusal of the aforesaid chart, percentage of Gold found from 63.95% to 81.47% in different exhibits and percentage of silver is from 5.08% to 24.37% and percentage of copper is from 5.71% to 18.16%.*
> *Thus, it cannot be established that the jewelleries were spurious, however may be of inferior quality. Be that as it may there are 24 accused in the said scam. Out of which 17 were borrowers and one Somnath Bobal had paid the loan amount and received the jewellery back and 11 borrowers were granted anticipatory bail by the Coordinate Bench of this Court".*

On behalf of the State through the status report that has been submitted, reliance is placed on a FSL report submitting that the worth of the gold pledged by the applicants i.e. Sarika Bobal, Suman Bobal and Sangeeta Bobal is just to the tune of Rs.37,85,000/-, Rs.23,45,000/- and Rs.18,70,000/- respectively whereas they had availed gold loan of Rs.1,40,02,100/-, Rs.89,39,500/- and Rs.67,89,580/- respectively and that apart from the same, the said applicants have intratransfer of money from other co-accused persons. In reply to a specific Court query put to the State and to the complainant in relation to the aspect as to whether the case of the present applicants was different from that of Naveen Kumar who has been granted bail vide order dated 17.09.2015 vide order of this Court in Bail Appln. 731/2015, it has been submitted on behalf of the State and complainant that the other co-accused have been released on bail, after an MOU was entered into between the other co-accused and the Dhan Laxmi Bank. It has also been submitted on behalf of the State and the complainant that the case of Rajat Sharma has no parity with that of the present applicants. The State has also submitted to the effect that the evidence against the applicants is to the effect that:

- Loan application forms having their signatures.
- Availed gold loan by the above accused i.e. Sarika Bobal, Suman Bobal and Sangeeta Bobal are Rs.1,40,02,100/-, Rs.89,39,500/- and Rs.67,89,580/- respectively against spurious gold ornaments.
- FSL report confirming their signatures on Loan Application Form.
- Government Approved Valuer Report.
- Reappraisal report by Ashirwad Jewellers.
- Their ITRs are not inconsonance with the money availed by them and there is total mismatch between level of income and value of jewellery pledged by them.

In reply to a specific Court query put to the Investigating Officer it is brought forth that as per the charge-sheet that has been submitted against Naveen, co-accused, who has been granted bail vide order dated 17.09.2015, the net weight of gold pledged by him was 1750 gms., 2505 gms., 1600 gms., 1850 gms., 1600 gms. and 2096 gms., the net worth of gold as per the Government Appriaser was 347, 502, 316, 368, 317 and 394 respectively.

It has been submitted on behalf of the applicants that vide the status report in relation to other co-accused Rakesh Bobal who is on bail, qua which it has been submitted by the State that he is only on an appraiser, in relation to co-accsued Naveen Kumar it has been put forth by the Investigating Officer to the effect that the net weight of