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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 566/2018 & CRL.M.A. 4648/2018

RITESH TEWARI

..... Petitioner

Through: Mr. Manoj Kr. Ohri, Sr. Advocate
with Mr. Y.R. Sharma, Mr. Nawab
singh, Mr. Rajeev Ranjan, Advocates.

versus

STATE

..... Respondent

Through: Mr. Kamal Kumar Ghei, APP for
State.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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20.03.2018

Submissions have been made on behalf of either side. The status report submitted on behalf of the State.

On behalf of the applicant, it has been submitted that he has been falsely implicated in the instant case. On behalf of the State, the application is vehemently opposed. However, during the course of the submissions that have been made, on behalf of petitioner has been placed on record the copy of the notice under Section 41 A of the Cr.P.C dated 17.03.2018 issued by Inspector Rajeev Kumar, Cyber Cell, Crime Branch who is the Investigating Officer of the case present in the Court and which is so affirmed by the Investigating Officer that the notice is issued by him.

Section 41A of the Cr.P.C. provides to the effect:-

41A. Notice of appearance before police officer. –

*(1) The police officer *[shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.*

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice."

Apparently a notice issued under Section 41 A of the Cr.P.C. is issued in cases where the arrest of a person is not required in terms of Section 41(1) of the Cr.P.C.

On behalf of the State a submission was sought to be made that the notice was issued inadvertently. On a consideration on the issuance of the notice dated 17.03.2018 as affirmed by the Investigating Officer from the Cyber Cell, Crime Branch, Delhi, in the event of arrest, a notice of seven days be issued to the applicant by the Investigating Agency. However, it is made clear that the applicant/petitioner shall not leave the country and the State would take requisite steps in relation thereto.

The original passport of the petitioner be handed over by the

petitioner to the Investigating Officer today at 2.30 PM at Cyber Cell, Crime Branch Delhi. Nothing stated hereinabove shall amount to any reflection on the merits or demerits of the case.

ANU MALHOTRA, J

MARCH 20, 2018/NC