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

+ CRL.M.C. 1889/2018

NEERAJ KUMAR

..... Petitioner

Through Mr. Murari Kumar, Ms. Nidhi Singh,  
Mr. Aman Jha and Ms. Shweta  
Shukla, Advs.

versus

STATE (GNCT OF DELHI) & ANR

..... Respondents

Through Ms . Neelam Sharma, APP with SI  
Satyavir Singh, P.S. Patel Nagar  
Mr. Amit Shukla, Adv. for respondent  
no. 2

AND

+ CRL.M.C. 3818/2017 and Crl. M.A. no. 6732/2018

TARUN JUNEJA

..... Petitioner

Through Mr. Amit Shukla, Adv.

versus

STATE

..... Respondent

Through Ms. Neelam Sharma, APP

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

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**05.12.2018**

Vide order dated 4<sup>th</sup> September, 2017 trial court had admitted  
respondent no. 2 Tarun Juneja on bail on the following conditions:-

“Considering the fact that accused/applicant is running in JC since 3.6.2017. Investigation of the case qua accused/applicant is almost complete. Chargesheet has already been filed. Conclusion of trial is likely to take time. Hence, accused/applicant is granted bail subject to the following conditions:-

- (i) that accused shall not misuse his liberty by indulging in similar act;
- (ii) that accused shall not tamper with the evidence/witnesses;
- (iii) that accused shall not threaten witnesses;
- (iv) that accused shall not leave the country without prior permission of the court;
- (v) that the accused shall not attempt to place himself beyond the reach of surety;
- (iv) that the accused shall deposit 50% of the cheated amount as security in the form of Bank Guarantee to be deposited in the Court within 2 weeks from today.”

Respondent no. 2 in Crl. M.C. no. 1889/2018, filed Crl. M.C. No. 3818/2017 thereby challenged the condition of deposit of 50% of the cheated amount while admitting respondent No. 2 on bail. The said petition was taken up for hearing on 18<sup>th</sup> September, 2017. During hearing of the said petition on 18<sup>th</sup> September, 2017, respondent no. 2 offered to deposit ₹14.40 lacs with the Registrar General of this Court within 10 days. Operative part of the said order dated 18<sup>th</sup> September, 2017 is as under:-

“Keeping in view the facts and circumstances of the present case, the condition i.e., the accused shall deposit 50% of the cheated amount as security in the form of Bank Guarantee to be deposited in the Court within 2 weeks from today, imposed by the Trial Court vide its order dated 04.09.2017 is modified to the extent that the petitioner is admitted to bail on his furnishing a personal bond and two surety bonds in the sum of ₹50,000/- each to the entire satisfaction of the Trial Court subject to deposit of ₹14.40 lacs with the Registrar General of this Court. Sureties shall file the FDR/TDR as proof of their financial soundness.

List on 14.12.2017 for arguments on main petition.”

It is not in dispute that ₹14.40 lacs has been deposited with the Registrar General of this Court by the respondent no. 2.

Petitioner Neeraj Kumar has filed Crl. M.C. no. 1889/2018 for cancellation of bail granted to respondent no. 2, vide order dated 4<sup>th</sup> September, 2017. It has also been prayed that ₹14.40 lacs deposited in this Court by the respondent no. 2 in Crl. M.C. 3818/2017 be released to M/s. Garvita Management Services Pvt. Ltd.

It is trite law that while granting bail, Court cannot impose condition of deposit of cheated amount. However, offer of an accused to deposit the money can be considered at the time of granting bail. Accordingly, I am of the view that trial court was not right in imposing the conditions of deposit

of 50% of the cheated amount without any such offer given by the accused, for granting the bail to accused.

Respondent no. 2 has already deposited ₹14.40 lacs in Court as offered by him at the time of hearing of Crl. M.C. no. 3818/2017 and in view thereof order dated 4<sup>th</sup> September, 2017 was modified to the extent of depositing the offered amount. Learned counsel for respondent no. 2 in Crl. M.C. no. 1889/2018 and petitioner in Crl. M.C. no. 3818/2017 submits that this amount may keep on lying deposited with the Registrar General of this Court during the pendency of lis between the parties.

In view of the above, Crl.M.C.1889/2018 is dismissed and Crl.M.C.3818/2017 is disposed of in terms of interim order dated 18<sup>th</sup> September, 2017.

**A.K. PATHAK, J.**

**DECEMBER 05, 2018/r.bararia**