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

+ CRL.M.C. 1772/2016

STATE (NCT) OF DELHI

..... Petitioner

Through: Mr. Ravi Nayak, APP with SI Ganpati  
Mahajar, PS EOW

versus

SANJAY KUMAR GUPTA

..... Respondent

Through: Mr. Puneet Mittal, Sr. Advocate with  
Mr. Rupendra Pratap Singh and Mr Raj Vardhan,  
Advocates

**CORAM:**

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

**ORDER**

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**21.08.2018**

On the application (bail application 4496/15) of the respondent in the context of FIR no.152/13 of police station EOW South involving offences punishable under Sections 406, 409, 420, 120B of the Indian Penal Code, 1860 (IPC) read with Section 3,4 and 5 of the Prize Chits & Money Circulation Schemes (Banning) Act, 1978, the court of Sessions by its order dated 15.10.2015 directed that in the event of he being arrested, the respondent in the said case would be released on bail by the arresting officer upon he furnishing personal bond in the sum of Rs.30,000/- with one surety in the like amount subject to the condition that he would join investigation as and when

required.

The State has challenged the said order by the petition at hand under Section 439(2) of the Code of Criminal Procedure, 1973 (Cr. PC) praying for its cancellation on the ground that the gravity of the facts and circumstances of the case had escaped the notice of the said Sessions court. The petition has been pending now for over two years. Meanwhile the investigation into the case has since been completed and charge-sheet has been laid in the competent criminal court which has already taken cognizance thereupon issuing process including against the respondent who has also put in appearance there.

The learned senior counsel appearing for the respondent informs the court that the respondent intends to move an application for regular bail under Section 437 Cr. PC in due course.

Given the above developments, such application should have been moved by the respondent and ought to have been considered by the trial court at the very first inception. It appears the trial court felt some inhibition in this regard on account of pendency of the present petition before this court.

Be that as it may, in the given facts and circumstances, it would be proper that the respondent is given opportunity to move such application now which he must do within two weeks hereof. Upon such application being moved, the State naturally will have the occasion to raise all the contentions urged here in opposition to the bail application, if it is so advised. The trial court will thereafter be

expected and called upon to take appropriate decision on such application for regular bail in accordance with law.

With these observations, the petition is disposed of.

*Dasti.*

**R.K.GAUBA, J**

**AUGUST 21, 2018**

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