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

+ BAIL APPLN. 1170/2018

PUSHPENDRA BHARDWAJ

..... Petitioner

Through: Mr. Vikas Pahwa, Sr. Adv. with Mr.
NC Kashyap, Adv.

versus

STATE

..... Respondent

Through: Mr. Ashish Dutta, APP for State
Mr. Abhishek Singh, Adv. for
complainant.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

01.06.2018

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Status report is on the record in terms of proceedings dated 21.05.2018.

On behalf of the applicant it has been submitted that the applicant has been in custody since 22.01.2018 and that the offences alleged against the applicant relate to offences punishable for 7 years of imprisonment and that in view of the parameters of the verdict in *Arnesh Kumar Vs. State of Bihar* (2014) 8 SCC 273, qua alleged commission of such offences, the applicant be allowed to be released on bail. It has been submitted on behalf of the applicant further that there are 86 Area Delivery Agents who have not be yet arrested by the Investigating Agency and only five persons in the instant case have been arrested, of whom one is the present applicant. It has further been submitted on behalf of the applicant that the investigation in the matter

has been also completed and that no useful purpose would be served by further incarceration of the applicant in custody. Reliance is also placed on behalf of the applicant on a No Dues Certificate issued by the Gujarat Cooperative Milk Marketing Federation Ltd. to submit that there is no liability whatsoever due against the applicant.

On behalf of the State, the application is vehemently opposed submitting *inter alia* to the effect that as per the status report and as per the submissions made the applicant was in a position of trust and was working as Branch Commercial Account In Charge and was the only one in the Branch who was in a position to operate and manipulate the operating system of the complainant i.e. GCMMF Ltd. It has been submitted during the course of submissions on behalf of the State that though undoubtedly as per the status report on the record a sum of Rs.50,04,756/- of the total loss of Rs.2,87,63,529/- is only yet to be recovered. The factum that the salary of the applicant was only Rs.70,000/- per month and that within a period from 02.04.2016 to 16.03.2018, there is an amount of Rs.97,88,865/- in the account no.04851140285780, i.e. the account of the in the applicant's spouse, cannot be overlooked.

During the course of submissions that have been made on behalf of the complainant it has been brought to the notice that the no liability statement dated 02.12.2017 on which reliance was placed on behalf of the petitioner/applicant is an incomplete document inasmuch as the Branch Manager and ZIC/HOD had not signed the same. On behalf of the applicant it has been submitted that the reliance placed on the documents at pages 251/252 of the petition relate to No Liability Statement qua Supriya Bajaj

and not to the applicant. On behalf of the complainant and the State reliance is placed on the document placed at pages 247-248 which is claimed to be a No Liability Statement qua the applicant to indicate clearly that the said document has not been signed by the Zonal In-charge and Head of the Department.

Reliance has also been placed on behalf of the complainant on the aspect that the System Application Programme of the complainant was manipulated by the applicant with his having created 125 false fake freight entries and 90,954 false entries amounting to Rs.150 each with the use of IDs of other persons along with his own ID and that the scope of the fraud perpetrated upon the complainant is of a massive scale and the investigation related to the ADAs is still going on. The Investigating Officer has put forth the statement of HDFC Bank account of the applicant to show how the applicant has received the amount from Shree Durga Enterprises. In reply to a specific Court query it has been submitted on behalf of the State that the signatures of the applicant have been taken and sent to the FSL.

The entries relied upon on behalf of the State and the complainant against the applicant are disputed.

A catena of verdicts has been relied upon on behalf of the applicant whereby reliance has been placed in *Dataram Singh Vs. State of U.P.* (2018) 3 SCC 22, in *Sanjay Chandra Vs. CBI* (2012) 1 SCC 40, in *Dipak Shubhashchandra Mehta Vs. CBI* (2012) 4 SCC 134, in *Jitender Kumar Vs. Govt. of NCT, Delhi*, in *Ajay Madan Vs. State* (2015) SCC Online Del 12764, in *Pooja Khanna Vs. State* 2015 SCC Online Del 12763, in *Rajat Sharma Vs. State* 2015 SCC online Del 8914, in *Jagdish Gupta Vs. State*

2015 SCC Online Del 12497, in *Ajay Tayal Vs. State* 2015 SCC Online Del 13688, in *Suresh Kalmadi Vs. CBI* (2012) 127 DRJ 588, in *Neeru Yadav Vs. State of U.P.* to contend that in the circumstances of the case, no useful purpose would be served by any further incarceration of the applicant.

Taking into account the totality of the circumstances of the case, however there is no ground for grant of bail.

Nothing stated hereinabove shall amount to the expression of the merits of the case.

ANU MALHOTRA, J

JUNE 01, 2018/vm