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

\+ BAIL APPLN. 1786/2018

JAGBIR SINGH DAHIYA ..... Petitioner

Through: Mr. N. Hariharan, Sr. Adv. with Mr. Siddharth S. Yadav, Mr. Varun Deswal, Ms. Sneha, Mr. Aditya Vaibhav Singh and Mr. Prateek Bhalla, Advs.

versus

STATE (NCT OF DELHI) ..... Respondent

Through: Mr. G.M. Farooqui, APP for State with SI Sushil Sanwaria, P.S. Defence Colony. Mr. Arun Khatri, Advocate for Complainant.

**CORAM:**
**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**O R D E R**

*%* **17.08.2018**

The petitioner seeks anticipatory bail in case FIR No.48/2018 Police Station – Defence Colony registered under sections 420/406/506/120-B IPC.

The learned Senior Advocate for the petitioner states that the petitioner is ready and willing to join investigations.

It is the complainant's case that he was defrauded by the petitioner who is 50% owner of M/s Arun Buildwell and is one of the two Directors of the said Company. He invested around Rs.2.00 crore with the said company. The money was paid in cash on different dates including a cheque of Rs. 27 lacs. This cheque transaction was reflected in the account of the said company. In his complaint, the complainant has specifically mentioned the name of the petitioner as one of the persons who was present when money was given in cash. He complained that nothing worthwhile came about regarding the promised development of real estate for which the investment was made by him. He was then promised a share in a factory in Baddi, Himachal Pradesh, which at that time was valued at Rs. 4 crores. However, when he sought transfer of share and other details regarding the said factory, he was told that all its plant and machinery had been stolen. However, no complaint was made by the Directors of the said company before the police or any authority regarding theft in factory.

Mr. Hariharan states that the said factory was owned by his co-Director Manoj Kadian, therefore, the transaction in question has nothing to do with either the petitioner or M/s Arun Buildwell.

The learned counsel for the complainant submits that thereafter in order to assure the complainant of his investments, two properties in Dehradun were sought to be transferred his name; the said property was owned by M/s Daulat Infrastructure Private Ltd. and without a resolution, the same could not have been transferred in his name. It is stated that at the time of registration of documents, no such resolution was annexed. Additionally, the petitioner is 50% owner of M/s. Daulat Infrastructure Pvt. Ltd. He further states that the complainant is an innocent investor and has been defrauded of his money by the petitioner.

Mr. Hariharan further submits that there was only one bank account maintained in Syndicate Bank for the said company. However, Manoj Kadian used to surreptitiously maintain another account of the company, which had been opened earlier i.e. before the petitioner became its 50% shareholder. Monies were brought into this earlier account by Mr. Manoj Kadian in the name of the Company and were siphoned off by him, without the knowledge of the petitioner. Indeed, of the Rs.27 lacs which the complainant gave to M/s Arun Buildwell through net banking transaction, only Rs.15 lacs came into the account directly whereas Rs.12 lacs was deposited in Manoj Kadian's bank account from where he transferred the same to the account of M/s Arun Buildwell. The learned Senior Advocate refers to bank transactions of M/s Arun Buildwell from the year 2015 till date. He states that all monies from the said account have been siphoned off by Manoj Kadian into various doubtful transactions, including Rs.2 crores which was taken as loan from the Syndicate Bank account against a sanctioned amount of Rs. 4.9 crores.

The learned Senior Counsel further submits, that it is inconceivable that the transaction of a large sum of money i.e. more than Rs 1 crore would have happened between the parties in a busy restaurant and not in any office of the parties concerned. He submits, that it is also implausible that monies would be paid by a person to a company, without the investor knowing the nature of investment he was making nor him seeking any acknowledgement of such large cost transaction. He also doubts the capacity of the complainant to pay such a large amount of money especially since he is a Clerk in the Municipal Corporation and he could not have accumulated such large sums of money.

Mr. Farooqui, the learned counsel for the State opposes the bail on the ground that M/s Arun Buildwell and its Directors, ex-facie, are not innocent of the transactions made by the company. He submits that neither M/s Arun Buildwell nor M/s Daulat Infrastructure Pvt. Ltd. nor their Directors are innocent of the transactions because not only Rs. 27 lacs was paid to M/s Arun Buildwell but Rs. 4.75 lacs was also deposited into the bank account of

M/s Daulat Infrastructure Pvt. Ltd., and even then, the land as promised, was not transferred to the complainant.

Mr. Hariharan submits that the said amount was deposited perhaps for transfer of lands of M/s Daulat Infrastructure Pvt. Ltd. to the complainant, and against such a move the petitioner has already raised an objection. He also refers to transcription of telephone conversation which is on record, to contend that the petitioner is innocent of the accusations and had come to know about the said transfer of money only on 26.07.2017. He promptly filed a complaint thereafter before the police on 31.07.2017 and requested that said account be frozen. He also wrote a detailed complaint to the Commissioner of Police, Gurgaon on 18.01.2018 specifying therein the various fraudulent activities carried on by M/s Arun Buildwell, defrauding not only him, but various others. The petitioner has also complained, inter alia, that his signatures were forged for the purpose of withdrawing monies from the bank account and that the matter should be looked into.

The learned counsel for the parties have been heard.

What emanates from the above submission is the singular contention of the petitioner that he is entirely innocent of all banking transactions of the company: M/s Arun Buildwell and M/s. Daulat Infrastructure and of the manner in which the two companies were being run. This Court is not persuaded by the said argument because the petitioner was an equal owner and one of the two Directors of the Company and is equally placed as the other accused Manoj Kadian and the complainant claim to have invested in the said company. The petitioner shows some knowledge and familiarity of the monies that were coming to the account of the Company and of how they are being used. Therefore he would not be entirely unaware of the goings on.

A perusal of the company's bank account would show that monies have been consistently withdrawn from and deposited into the account; the petitioner is deemed to have knowledge of it in law as well as in view of the fact that he was an approved signatory to the bank transactions. Furthermore, if the petitioner was so aggrieved by the transfer of land belonging to M/s Daulat Infrastructure Pvt. Ltd. to the complainant, he should have filed a complaint to the police immediately, i.e., the very next day of the incident instead of waiting for three days and instructing the bank a few days later. His complaint to the Police Commissioner was filed seven months thereafter. He did not send any legal notice or take any action against his co-accused –the Director, namely Mr. Manoj Kadian.

In view of the above, the application for bail is rejected.

**NAJMI WAZIRI, J**

**AUGUST 17, 2018/**acm