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

+ **CRL.M.C. 4016/2018 & CRL.M.A. 29678-29679/2018**

VIPIN KUMAR

..... Petitioner

Through: Mr. K.K. Sharma, Senior Advocate
with Mr. Munipalle S. Dev,
Advocate.

versus

STATE & ANR.

..... Respondents

Through: Mr. Amit Ahlawat, APP for State
with SI Deepak Tanwar, P.S. Malviya
Nagar.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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09.08.2018

The involvement of the petitioner in offences punishable under Sections 420/467/468/471/120B/34 IPC was alleged by FIR No.273/14 of Police Station Malviya Nagar registered on the complaint of Sukrat Bajaj. During the course of investigation Vinod Kumar, father of the petitioner herein, one of the Directors of M/s Sai Saburi Builders was arrested. The petitioner, another Director in the said company, is stated to have evaded the process, he being eventually declared a proclaimed offender by the Metropolitan Magistrate on 08.08.2016.

The investigation of the case was concluded and charge-sheet was laid in the court of Metropolitan Magistrate on 26.05.2016. The petitioner had earlier approached this Court by Crl.M.C. 3996/2017 which was disposed of by order dated 25.09.2017, he having been

directed to appear before the trial court on 12.10.2017 with anticipatory bail in the meantime being granted subject to conditions specified in the said order. The petitioner was expected at that stage to move an application for release on regular bail before the trial court. The petitioner complied with said order and surrendered before the trial court. He was taken in custody and on the request of the investigating agency sent on police remand.

Thereafter, by order dated 14.10.2017 on his application, the Metropolitan Magistrate directed his release on regular bail subject to certain conditions which included filing of a Fixed Deposit Receipt (FDR) in the sum of Rs.10 lakhs. The petitioner having complied with said conditions thus came to be released on bail. The State is seeking his prosecution on the basis of charge-sheet as has already been submitted.

The order dated 14.10.2017 of the Metropolitan Magistrate, however, was challenged by the complainant before the court of Sessions (Crl. Rev. No. 33/18). The revisional court by order dated 04.08.2018 found merits in the said petition and set aside the order dated 14.10.2017 thereby cancelling the bail directing the petitioner to surrender. The present petition under Section 482 of Code of Criminal Procedure, 1973 seeks to question the view taken by the revisional court.

Having heard the counsel for the petitioner and counsel for the complainant and the Additional Public Prosecutor who has submitted status report, this Court finds the approach of the sessions court in

revision to be wholly misdirected. The police investigation has shown that the petitioner is not a signatory to any document nor a direct beneficiary of the amounts received in the name of the company. The allegations to the effect that he had induced the complainant to part with money on false representation are subject matter of trial.

The observation of the sessions court that the petitioner had been released on bail just two days after the completion of the police remand, cannot be appreciated. There is no hard and fast rule as to how long a person should remain in custody whether before or after such grant of police remand prior to his application for release on bail to be considered by the court. The investigation having since been completed, no useful purpose would be served by keeping the petitioner in custody. After all, the release on bail is to be the general rule and denial an exception. Keeping a person in custody pending trial, in the facts and circumstances, would amount to penalising him before his guilt has properly been brought home.

The impugned order of the revisional court is set aside. The bail order granted by the Metropolitan Magistrate shall stand revived and restored.

The petition and the accompanying applications are disposed of in above terms.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

AUGUST 09, 2018/srb
CRL.M.C. 4016/2018

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