

\$~1 & 2 (*common order*)

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

Decided on: 17th July, 2018

+ BAIL APPLN. 870/2017 and Crl. M.(B). 879/2017,
Crl.M.A.13467/2017, 10361-10362/2018

JASPAL SINGH BATRA Petitioner

Through: Mr. Rajat Aneja, Advocate with
Ms. Chandrika Gupta, Advocate

versus

STATE Respondent

Through: Mr. Ashish Dutta, APP for the State
Mr. Tanmaya Mehta, Adv. with
Mr. Anurag Sahay, Advocate for
R-2.

+ BAIL APPLN. 1058/2017 and Crl.M.A.14713/2017,
16629/2017

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versus

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Through: Mr. Ashish Dutta, APP for the State
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R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. Allegations of complicity in offences punishable under Sections 420/406/120B/34 of the Indian Penal Code, 1860 (IPC) have been levelled against the petitioners in these two matters (they being father and son respectively), in FIR No.608/2016 of Police Station Okhla Industrial Area, registered on 05.11.2016 on the complaint of Mr. Rasik Sahni, partner of M/s. Gay Printers, which is engaged in the business of providing printing services. The dispute relates to a high end printing machine procured by the complainant, for consideration, with the assistance of the petitioners, they being engaged in the business of import of said machinery through their concerns described as M/s. Sheefa Exports Pvt. Ltd and M/s. Trinity Printing Machinery, the latter being based in Florida (USA). The case has been under investigation with the police, completion of which process is not yet in sight.

2. The first captioned petition of Jaspal Singh Batra had come up before this court on 18.05.2017 with the following order being passed:-

“Status report has been filed.

The learned counsel for the applicant submitted at the outset that in order to show his bonafide, the applicant is ready and willing to deposit out of his own free will and volition, an amount of Rs.Fifty Lakh in the court, this without prejudice to his contentions and defences, with further request that the amount may be retained in the court and not be released till the controversy is resolved.

Having heard the learned counsel on all sides, as also the additional public prosecutor for the State, it is directed that the amount offered to be deposited by the

petitioner, if tendered in court, shall be received and retained in an interest bearing fixed deposit receipt by the Registrar General, initially for a period of six months with provision for auto renewal. The amount, it has been undertaken, shall be deposited within two weeks hereof.

Subject to this undertaking being complied with, there shall be no coercive action against the applicant, till next date, this further conditional upon he joining and cooperating with the process of investigation as and when called upon to do so.

The applicant shall not leave India without prior permission of the court.

Be listed on 10.08.2017.

A fresh updated status report shall be submitted. Dasti.”

3. The second petition of Jaspreet Singh Batra came up before this court on 30.05.2017 when the following order was passed:-

“BAIL APPLN.1058/2017 and Crl. M.(Bail) 1050/2017

The petitioner is a son of Jaspal Singh Batra, a co-accused, who was granted interim protection against coercive action by order dated 18.05.2017 on bail application on. 870/2017 in the context of on-going investigation into FIR no.608/2016 under sections 420, 406, 120B, 34 IPC of police station Okhla Industrial Area. It is noted that in the case of Jaspal Singh Batra against the backdrop of the allegations that he was one of the directors of Sheefa Exports Pvt. Ltd., the said company having received the money in the course of transactions which are allegedly referred to as constituting the offence of cheating, the said Jaspal Singh Batra had voluntarily offered to deposit an amount of Rs.50 Lakhs to show his bonafide and was permitted to do so by order dated 18.05.2017.

The application for similar protection for the petitioner is resisted by the complainant and the State, inter alia, on the ground that he had also taken active part in the transactions in question and, in association with one Amar Pal Singh had received Rs.5 Lakhs by cheque in the name of Sheefa Exports Pvt. Ltd. from the complainant but it is fairly conceded that the said amount of money was eventually returned to the complainant, though further allegations in the case being that an amount of Rs.25 Lakhs was later collected in cash.

On being asked, the learned public prosecutor fairly conceded that the amount of Rs.25 Lakhs was received not by the petitioner but by Amar Pal Singh.

In the facts and circumstances, the petitioner deserves protection. No coercive action shall be taken against him till the next date of hearing, this being conditional upon he joining and cooperating with the process of investigation as and when called upon to do so and he not leaving India without prior permission of the court. This disposes of Crl. M.(B) 1050/2017.

Be listed on 10.08.2017.

Dasti under the signatures of the Court Master.”

4. The aforementioned orders have continued to be operative, extended from time to time, till date, over the period on their applications, the petitioners have been granted permission to go abroad for certain durations, subject to complying with certain conditions. There is no allegation of either of these petitioners having misused the liberty thus granted by the interim orders protecting them against arrest or by the orders in terms of which they have been travelling abroad.

5. Pertinent to note here that the investigating officer by his report submitted in December, 2017 (pages 195-197 of the paper book of the first captioned petition) has confirmed that the petitioners have been joining investigation as and when called upon to do so and have been interrogated at length, they having produced the mobile phones containing certain *Whatsapp* conversations, which statedly are relevant for the purposes of investigation and, therefore, taken over by the investigating agency. The first petitioner had deposited an amount of Rs.50 lacs with the Registrar General of this Court in terms of the order dated 18.05.2017 quoted earlier.

6. The investigating officer has also pointedly mentioned in his said report that pursuant to notice under Section 91 Cr.P.C. calling him upon to produce evidence in support of the claim of expenditure in repairs to the tune of Rs.65 lacs, no tax invoice has been produced by the complainant, photocopies of cash receipts showing the total value of Rs.14,50,000/- having been produced only on 09.12.2017.

7. It is pointed out by the petitioners that co-accused Amar Pal Singh was admitted on anticipatory bail by another co-ordinate bench by order dated 04.07.2017 in Bail Application No.1112/2017. It is submitted that in the given facts and circumstances, on parity and in view of the fact that the petitioners have joined investigation, the dispute, according to the submissions of the petitioners, being civil in nature, the petitions for anticipatory bail may be allowed.

8. The complainant, during the pendency of these matters has come up with Crl.M.A. 10361/2018, in the first captioned matter, praying for cancellation of the interim protection granted to the petitioner Jaspal Singh Batra by order dated 18.05.2017. The *prima facie* ground on which such prayer is made is that the said petitioner tried to influence the persons connected with the agency involved in repair of the defective machine, which was allegedly delivered, reliance being placed on transcript of conversation involving the official of Komori India Private Limited on one hand and the complainant, besides one more person on the other.

9. The person who was statedly improperly approached himself has not come up with any grievance. The stray observations carrying more of innuendo in the said tape-recorded conversation are not sufficient to reach the conclusion that the petitioner is trying to tamper with the evidence. In these circumstances, while the investigating officer has confirmed that the petitioners have been co-operating with the probe agency, there is no good ground why the interim protection be withdrawn or the anticipatory bail application be rejected.

10. In the afore-mentioned facts and circumstances, and also on parity, both the petitions for grant of anticipatory bail are hereby allowed. It is directed that in the event of they being arrested during the course of investigation into case FIR No.608/2016, under Sections 420/406/120-B/34 IPC, the petitioners Jaspal Singh Batra

and Jaspreet Singh Batra be released on anticipatory bail, subject to the following conditions:-

- (i) An amount of Rs.50 lacs deposited by the petitioner Jaspal Singh Batra with the Registrar General shall continue to be retained in interest bearing fixed deposit receipt in terms of order dated 18.05.2017, till completion of investigation and thereafter shall be subject to such further directions as may be passed by the court of cognizance or the trial court, as the case may be, at appropriate stage.
- (ii) The petitioners shall continue cooperating with the investigation and join the same as and when called upon to do so;
- (ii) The petitioners shall not come in contact with or try to influence any of the witnesses connected to the case;
- (iv) Prior to their release, they shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the investigating officer;
- (v) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence;
- (vi). They shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure due compliance with this condition and shall deposit their passports, if they hold one, with the said court; and

(vii) This order will inure only till the date of first appearance of the petitioners in the event of a charge-sheet being filed on conclusion of the investigation and process being issued against them by the court of cognizance.

11. Both the petitions and the pending applications stand disposed of in above terms.

R.K.GAUBA, J.

JULY 17, 2018

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