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* IN THE HIGH COURT OF DELHI AT NEW DELHI
\+ BAIL APPLN. 1273/2017

Order Reserved On: 05th December, 2017
Order Pronounced On: 03rd January, 2018

RAJESH GARG ..... Petitioner
Through: Mr. Satish Tamta Sr. Adv. with Mr. Rajesh Kr. Mittal, Advocates.

Versus

THE STATE & ANR .....Respondents
Through: Ms. Anita Abraham, APP for State, Ms. Pratibha, Advocate for R-2 with respondent No.2/AR Suneela Sangwan in person.

CORAM:
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. By way of the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 (herein referred as 'Cr.P.C.'), the petitioner **seeks Anticipatory Bail** in FIR No. 55/2011 under Section 420/468/471/120B of the Indian Penal Code, 1860 (hereinafter referred as 'IPC'), registered at Police Station Connaught Place, Delhi.
2. The brief facts of the case are that a complaint was lodged on 24.03.2011 by one Jagbir Singh/complainant, acting in the capacity of duly authorized reprsentative of M/s. Indiabulls Financial Services Limited, against the petitioner and several other accused persons. The complainant alleged that in August 2010 one Ajay Mehra/accused alongwith four other co-accused persons had

approached the complainant's company for sanction of a Business Loan to a tune of Rs. 35 Lakhs and had furnished an application form along with duly executed Demand Promissory Note, Declaration and certain other documents in favour of the complainant's company. In order to further prove their credentials the accused persons had also submitted documents which include self attested photocopies of PAN Card, ITR, Registered General Power of Attorney etc. The complainant's company had sanctioned a loan amount of Rs.12,29,240/- in favour of the accused persons which was to be repaid in twenty equated monthly installments of Rs.72,781/- each. The accused persons however defaulted the very first installment which was due on 1st October 2010. On this the officials of the complainant's company visited the address provided by the accused persons but found that they had submitted false and fabricated documents as regards the ownership of the said promises which in fact belonged to some other person namely Rajesh Sharma/owner and the accused persons were merely tenants in the said property. The complainant further found that the accused persons had sought help from one Sahib Ali/co-accused to create fabricated G.P.A. and such other documents in respect of that property in order to get loan from the complainant's company. Thereafter the present petitioner approached one executive of the complainant's company on behalf of the other accused persons and offered Rs. 9 Lakhs as full and final settlement against the loan amount of Rs.12,29,240/-. The complainant alleged that all the accused persons as named in the FIR have hatched a conspiracy with malafide attention to cheat the complainant's company. Hence the present complaint.

3. The petitioner has previously filed an anticipatory bail application before the Court of Additional Sessions Judge and the same was dismissed vide order dated 03.07.2017.

4. Mr. Satish Tamta, learned Senior Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is apprehending his arrest; that the petitioner is not aware of any loan taken by the accused persons from the complainant's company and has neither visited or met with the executive or officials of the complainant's company; that there is no role of the petitioner in connection with the subject FIR as he is not the signatory to the loan documents; that there is no prima facie evidence to connect the petitioner with the alleged offence; that the petitioner has been joining investigation as and when required and undertakes to cooperate in the same in future; that in the aforesaid circumstances the petitioner be released on anticipatory bail as prayed for.

5. On the other hand, Ms. Anita Abraham, learned APP for the State vehemently opposed the anticipatory bail application of the petitioner and submitted that there are allegations against the petitioner that he has approached the complainants company to settle the loan amount on behalf of the other co-accused persons which point towards the active role played by him in the commission of the alleged offence; that the petitioner is also involved in a similar case bearing FIR No.89/2008

registered under Sections 419/420/406/467/468/471/506/174A IPC in which he has been chargesheeted as an accused in Column No.11; that hence in the said circumstances the present petition be dismissed.

6. I have heard the learned counsel for the parties and perused the material available on record.

7. In the present case, the accused Ajay Mehra alongwith others had taken a Business loan of Rs.12,29,240/- from the complainant's company by furnishing certain documentary proof of ownership in respect of a property which in fact is owned by one Rajesh Sharma and the accused persons in whose favour the loan was sanctioned were only tenants in the said property. Rent agreement dated 01.08.2008 executed by Rajesh Sharma in favour of accused Ajay Mehra has been placed on record.

8. It is not disputed that the petitioner and accused Ajay Mehra were good friends and that the petitioner himself was not a signatory to the alleged loan transaction. But the only role attributed to the petitioner in the entire alleged transaction is that in order to get the matter settled he approached one Ashish Singh/executive of the complainant's company on behalf of the accused persons and offered Rs. 9 Lakhs as full and final settlement against the loan amount of Rs.12,29,240/-.

9. Therefore, keeping in view the aforesaid facts and circumstances of the present case, the petitioner is admitted to anticipatory bail, subject to the following conditions:

    i) That the petitioner shall furnish a personal bond in the sum of **Rs.25,000/-** with one surety of the like amount subject to the satisfaction of Arresting Officer/SHO concerned;

    ii) that the petitioner shall cooperate with the investigation and make himself available for interrogation by police officer as and when required;

10. Accordingly, the petition stands disposed of.

11. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

12. Copy of this Order be given dasti, under the signatures of the Court Master.

SANGITA DHINGRA SEHGAL.J

JANUARY 3, 2018