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

+ BAIL APPLN. 2421/2017

MAHIPAL SINGH

..... Petitioner

Through: Mr. Saleem Ahmed, Adv. for petitioner
with Ms. Charu Dalal and Mr. Ajay Pratap Singh,
Adv.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Ms. Radhika Kolluru, APP for State with
SI Surender Singh P.S. Mianwali Nagar.
Dr. R.S. Sasan, Adv. for the complainant.

+ BAIL APPLN. 64/2018

MAHIPAL SINGH

..... Petitioner

Through: Mr. Saleem Ahmed, Adv. for petitioner
with Ms. Charu Dalal and Mr. Ajay Pratap Singh,
Adv.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Ms. Radhika Kolluru, APP for State with
SI Surender Singh P.S. Mianwali Nagar.
Mr. Sanjay Khanna and Ms. Sonam Bhardwaj,
Adv. for the complainant.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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02.08.2018

The petitioner seeks bail in FIR No.204/2013 & 58/2014, both registered at P.S. Mianwali Nagar under sections 406/420/467/468/471/120B/34 IPC on the ground that his co-accused who was identically charged for the same offence of alleged fraud has been released on bail on 20.12.2016. Eight co-accused were never arrested.

The learned counsel for the petitioner refers to the judgment of the Supreme Court in *Sanjay Chandra vs. Central Bureau of Investigation*

(2012) 1 SCC 40 which held as under:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, ‘necessity’ is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.”

He also relies upon the following judgments:

- (i) H.B. Chaturvedi Vs. CBI 2010 (3) JCC 2109;
- (ii) Jitender Kumar vs. GNCT of Delhi; Bail Appl. No. 2707/2015 (Delhi High Court);
- (iii) Dataram Singh vs. State of Uttar Pradesh & Anr. CrI. Appl. NO. 227/2018 (Arising out of SLP (CrI.) No.151 of 2018)

It is submitted that (i) the petitioner is behind bars for three years and six months and with the inclusion of remission period, it comes to about four years and six months; (ii) till date even charges have not been framed and that the presumption of innocence would be in favour of the petitioner looking at the fact that his co-accused, who was identically charged on the same facts and on the same set of documents, has been released on bail by the Trial Court; (iii) the petitioner was earlier granted interim bail and he surrendered before the Jail Authorities in time; and (iv) a supplementary Charge-sheet was sought to be filed by the State on 26.07.2018 but the same has not been filed.

In view of the above, the petitioner is granted bail in both the aforementioned FIRs subject to (i) his furnishing personal bond in the sum of Rs.1,00,000/- with one surety in the like amount, in each case, to the satisfaction of the Trial Court; (ii) during the period of bail he shall not tamper with the evidence or evade the process of law or try to influence the prosecution in any manner; (iii) shall regularly appear before the Trial Court; and (iv) shall not be found to have indulged in any of the activities that he is alleged to have done. In the event of violation of any of the conditions, it will be open to the prosecution to approach the Court by way of an application to cancel the bail.

The petitions are disposed off in the above terms.

A copy of this order be given *dasti* to the learned counsel for the appellant under signature of the Court Master.

NAJMI WAZIRI, J

AUGUST 02, 2018/acm