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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4430/2015**

STATE

..... Petitioner

Through: Ms. Meenakshi Dahiya, APP

versus

PARVESH KHURANIA

..... Respondent

Through: Mr. Mandeep Singh Vinaik, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **11.09.2018**

Feeling aggrieved by the order dated 13.07.2015 of the court of Sessions passed on bail application no.2646/2015 releasing the respondent (accused) on bail in case FIR 130/15 of police station EOW involving offences punishable under Sections 420, 406, 120B of Indian Penal Code, 1860 (IPC), the State approached this court by the petition at hand invoking the jurisdiction under Section 439(2) of the Cr. PC. The petition preferred in October 2015 has remained pending for almost three years, the earlier proceedings indicating lack of interest on the part of the petitioner.

Be that as it may, the submissions of the petitioner through Additional Public Prosecutor and also of the counsel for the respondent in opposition have been heard and the record perused.

It does appear, as was submitted that the case involves allegations of the respondent (accused) and his alleged associates,

having defrauded public sector banks of money calculated to the extent of Rs.35.60 crores by various acts of commission or omission. It also may be assumed that the investigation in this regard might have required seizure of voluminous records and probe from all angles including of the role of the co-accused persons. But the fact remains, as is also shown by the impugned order, that the respondent was arrested and sent to judicial custody with effect from 14.04.2015. A report under Section 173 of the Cr. PC seeking his prosecution appears to have been submitted on 13.06.2015. Even thereafter, the investigative process has continued presumably in terms of the power and discretion of the police under Section 173(8) Cr. PC. As revealed from the material on record, such continued investigating process focuses on the role of others, who may have been involved in the criminal conspiracy with the respondent.

The fact, however, remains that the charge-sheet against the respondent had been filed just around the time the period of 60 days of his continued custody was to come to an end. If what is being argued is correct and if certain further probe was required into the role of the respondent, there is no justification shown for the hurried submission of the charge-sheet against him around the time when he would have become entitled to the bail by default under Section 167 Cr. PC.

The amount of money to the extent of which the public sector banks have been defrauded by the alleged acts of commission or omission cannot ordinarily be the ultimate measure on which the bail

is to be granted or denied.

The submission that the money has not been recovered proceeds on the assumption that the objective of criminal process is to recover the money which is not correct.

The submission that custodial interrogation of the respondent was required does not stand to reason. There is nothing shown by the State to demonstrate that it had made any effort to secure the custody of the respondent for his interrogation during the almost two months' period he remained in custody prior to filing of the charge-sheet or even till he was released on bail on 13.07.2015.

The further argument that the possibility of the respondent tampering with or manipulating the evidence has to be kept in mind is a baseless apprehension. In the last three years that this petition had been pending before this court, no instance of any effort by the respondent to misuse the liberty of bail granted to him for such purpose has been brought to the notice of this court. Even otherwise, if any such endeavour on the part of the respondent comes to light, the State would always have the right to refer to it to seek an order cancelling the bail. No such instance having been indicated in the petition, the bail order cannot be cancelled merely on the argument of some possibility.

The petition is found wholly devoid of merit or substance. It is dismissed.

R.K.GAUBA, J

SEPTEMBER 11, 2018

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