

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

% **Reserved on : 11.10.2019**  
**Pronounced on : 16.10.2019**

+ **BAIL APPLN. 2418/2019**

DEEPAK VERMA

..... Petitioner

Through Mr. Arvind Nayar, Sr. Adv. with Mr.  
C.M. Verma, Ms. Upasana Chandra  
Shekaran and Ms. Pragati Banka,  
Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through Mr. Amit Ahlawat, APP for State  
with SI Pravesh Kumar.

Mr. Rakesh C. Agarwal, Adv. with  
Mr. Sandeep Dhanuka, Ms. Manju  
Aggarwal and Mr. Amarnath, Adv.  
for complainant.

**CORAM:**  
**HON'BLE MR. JUSTICE RAJNISH BHATNAGAR**

**ORDER**

**Crl. M.A. No. 36760/2019**

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

**BAIL APPLN. 2418/2019**

1. This is an application filed under Section 438 read with section 482 Cr.P.C for grant of anticipatory bail in case FIR No.185/2019 U/s 408 IPC registered at Police Station- Vivek Vihar, Delhi.

2. In brief the facts are that the petitioner was employee of the complainant and used to look after his bank affairs and had committed criminal breach of trust and misappropriated the total sum of Rs. 73,80,000/- withdrawn by him from the account of the complainant by way of 3 cheques on 10.04.2019. Thereafter, he did not report for the duty and initially the family members of the petitioner kept on gaining time on the pretext that he was out of station and on 25.04.2019, the brother of the petitioner threatened the complainant forget about the money.

3. It is submitted by the Ld. Sr. counsel for the petitioner that the petitioner has been falsely implicated. This is a counter blast to a complaint filed by the petitioner against the complainant on 15.04.2019. He further urged that on 08.04.2019 the petitioner came to know that the complainant had got registered a firm in the name and style of Aman Enterprises showing the petitioner as the proprietor thereof on the basis of fake and forged documents and when the petitioner confronted the complainant in this regard, he refused to divulge the details. He further urged that the allegations in the FIR are false which is evident from the fact that the petitioner worked with the complainant till 14.04.2019 and had also made withdrawal from the bank at the instance of the complainant on 11.04.2019. He further urged that the petitioner has handed over the amount withdrawn by him on

10.04.2019 and 11.04.2019 to the complainant and no recovery is to be effected from the petitioner and his custodial interrogation is not required.

4. It is further submitted by the Ld. Sr. counsel for the petitioner that if the CCTV footage of the concerned bank of 11.04.2019 is procured, it would be crystal clear that it was the petitioner who had gone to the bank on 11.04.2019 at the behest of the complainant to withdraw the money and it was not Kapil who according to the complainant had gone to the bank to withdraw the money.

5. On the other hand, it is submitted by the Ld. Addl. PP for the state assisted by the Ld. counsel for the complainant that as the petitioner has failed to hand over a sum of Rs. 73,80,000/- and has not even reported for duty after 10.04.2019, his custodial interrogation is required and recovery of the said amount is to be made. He further urged that on verification from the bank, it has been found that the withdrawal of money on 11.04.2019 from the bank has been made by one another employee of the complainant viz. Kapil and the petitioner had not reported for the duty on the said date. He further urged that the statement of Kapil U/s 161 Cr.P.C was recorded on 05.06.2019, wherein he has affirmed that the withdrawal on 11.04.2019 was made by him. It has been further urged by the Ld. Addl. PP for the state that the petitioner is not cooperating with the investigation and on 07.06.2019, witness Kapil had lodged a complaint against the petitioner stating therein that on 06.06.2019 at about 10:45 p.m, the petitioner alongwith his four associates had gone to his house and threatened him to desist from giving any evidence against him. He further urged that now the petitioner has been declared a Proclaimed Offender and

is not entitled to bail. He has relied upon *Lavesh Vs. State (NCT of Delhi)*, Criminal Appeal No. 1331 of 2012 arising out of SLP (Crl.) No 1961 of 2012 decided by the Hon'ble Supreme Court on 31 August, 2012.

6. The contention of the Ld. Sr. counsel for the petitioner that an FIR bearing No. 355/2019 U/s 420/468/471 IPC has been registered against the complainant as he was running a firm in the name of the petitioner has no force and in my opinion, no benefit of this can be extended to the petitioner in the facts and circumstances of this case. The FIR which has been registered against the complainant it will take its own course.

7. As per the allegations, the petitioner has withdrawn a sum of Rs. 73,80,000/- from the bank of the complainant on 10.04.2019 which was not handed over to the complainant by the petitioner and he was also not traceable. No doubt, the petitioner has joined the investigation on 06.06.2019 but when a specific question was asked from him as to where he was from 10.04.2019 to 30.04.2019 he stated that after 10.04.2019 he had gone to Haridwar and after 28.04.2019 he had gone to a Devi's temple but he nowhere states that he had gone to the bank of the complainant on 11.04.2019 to make further withdrawal as vehemently argued by the Ld. Sr. counsel for the petitioner. Upon verification from the bank it has been found that one another employee namely Kapil had gone to withdraw the money so, in these circumstances, at this stage the calling for the CCTV footage of the concerned bank may not be necessary on which much emphasis has been laid by the Ld. Sr. counsel for the petitioner. As per the Ld. APP for the state petitioner is not cooperating with the investigation, he has already been declared a Proclaimed Offender and recovery of amount is

to be effected from the petitioner, so, in these facts and circumstances, no ground for grant of anticipatory bail to the petitioner is made out, the bail application, is, therefore dismissed.

**RAJNISH BHATNAGAR, J**

**OCTOBER 16, 2019**

*Sumant*

