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

+ **BAIL APPLN. 2526/2019 & CRL.M.A. 37483/2019**

REKHA NICHANI

..... Petitioner

Through Mr Siddharth Aggarwal, Mr Simon Benjamin, Mr Surbhit Nandan and Ms Nikita Khaitan, Advocates.

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through Ms Kusum Dhalla, APP for State.
SI Pardeep Kumar, P.S. Paschim Vihar West.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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22.10.2019

1. The petitioner has filed the present petition, *inter alia*, seeking anticipatory bail in relation to FIR No. 465/2019 under Section 420 of the IPC registered with P.S. Paschim Vihar West.
2. The petitioner carries on the business of high-end cameras and photographic equipment. Admittedly, respondent no.2 (Vikas Goyal) had placed an order to purchase a camera and three lenses for a total sum of ₹13 lakhs. There is no dispute that respondent no.2 had paid the said amount by cheque and the petitioner (her sole proprietorship concern – Foto Color Emporium) had received the said amount.
3. According to the petitioner, the equipment had been delivered to one Mr Himanshu Kalra, as it was understood that he was the authorized

representative/associate of the complainant (respondent no.2). A retail invoice dated 04.04.2016 was also generated. Respondent no.2 states that he has no relationship with Himanshu Kalra. Since respondent no.2 has not received the equipment for which he has paid the full consideration, he has filed the FIR in question.

4. It is pointed out that the said FIR was registered pursuant to the directions issued by the learned Metropolitan Magistrate under Section 156(3) of the CrPC.

5. The status report has been filed which indicates that Himanshu Kalra is currently untraceable. It is also stated that custodial interrogation of the petitioner is required to obtain the original authority letter and invoice.

6. *Prima facie*, this Court is of the view that there does not appear any material to indicate any intent on the part of the petitioner to cheat any person. Indisputably, the petitioner is in the business of selling photographic equipment. The petitioner has produced the invoice for the equipment delivered, which indicates that the petitioner has also paid VAT on the sale price.

7. This appears to be a plain case where the purchaser has not received goods for which he has paid. All civil remedies in this regard are available to respondent no.2.

8. At this stage, this Court is refraining from making any further observations, however, this Court is unable to agree that any custodial interrogation of the petitioner (who is a woman aged sixty-five years) is required as stated in the status report.

9. Accordingly, the petition is allowed. In view of the above, the petitioner is admitted to anticipatory bail on her furnishing a personal bond

in the sum of ₹10,000/- with one surety of the like amount to the satisfaction of the concerned Investigating Officer. The petitioner shall also join the investigation as and when called upon to do so.

10. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

OCTOBER 22, 2019

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