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

% Reserved on: 26th September, 2019
Date of Decision: 15th October, 2019

\+ **BAIL APPN.1865/2019**

RUNA RAJPUT ..... Petitioner
Through: Mr.Ramesh Gupta, Senior Advocate with Mr. Lave Kumar Sharma & Mr. Anubhav Dubey, Advocates

versus

THE STATE ..... Respondent
Through: Mr. Raghuvinder Verma, APP with SI Santosh Kumar, PS: SIU-I, Crime Branch, Delhi.

CORAM:
HON'BLE MR. JUSTICE CHANDER SHEKHAR

CHANDER SHEKHAR, J.

1. The petitioner has filed the present application under Section 438 of the Code of Criminal Procedure, 1973 against the order dated 27.07.2019 in Bail Application No.2278/2019 passed by learned Additional Sessions Judge, MACT, Patiala House Courts, New Delhi in FIR No.46/18, under Sections 170/420/511 of the Indian Penal Code, 1860, PS: Crime Branch, Delhi, whereby the Sessions Court dismissed the anticipatory bail application of the petitioner.

2. The case of the prosecution, as noted by the Trial Court, is as under:

> "This case has been registered by the police on 22.02.2018 on the basis of a written complaint dated 20.02.2018 given to the police by one Anil Kumar, Administrative Officer of Indian Institute of Corporate Affairs (IICA), Govt. of India, Ministry of Corporate Affairs, IMT Manesar, Haryana, on allegation that a fake purchase order dated 15.01.2018 was placed on their behalf with Reliance Retail Ltd. (RIL) for procurement of certain electronic items from RIL costing approx. Rs.11 lacs. The said order is alleged to have been placed by the present applicant in her capacity of Consultant, Procurement, IICA, MCA, Govt. of India using the signatures of a former Director General and CEO of the said Institute on his letter head and the rubber stamp, GST certificate as well as PAN card of the Institute. It is also alleged that there has been some conversation between the above applicant and RIL in connection with the above said transaction and further some telephonic conversations between a lady representing herself to be Ms. Runa Pasricha, i.e. the applicant, and the Business Manager of RIL. The address for delivery of the above electronic items was given to be of a house in Munirka Vihar, New Delhi. However, after having some suspicion, the business head of RIL had visited the office of above Institute to find out the truth about the above purchase order as it contained a term of 15 days credit, but on visiting the said office, it was revealed that the above purchase order was fake and Ms. Runa Pasricha was though earlier working as a Consultant with the said Institute, but she had already left the Institute and no such purchase order was placed on behalf of the Institute."

3. Learned Senior Counsel for the petitioner argued that there was a delay of almost one month in the lodging of the FIR, however, neither the complainant nor the police official gave any reason for the delay in registration of the FIR. Learned Senior Counsel for the

petitioner also argued that the petitioner has been falsely implicated in the present case, though, she was working as a Consultant with the complainant, yet she has nothing to do with the purchase order as she left the job on 18.2.2016, much prior to the placing of the said order. Learned Senior Counsel for the petitioner submitted that the learned Additional Sessions Judge also appreciated that the petitioner was having nothing in her possession, for the recovery whereof the custody of the petitioner may be required by the respondent. The petitioner is a young lady living separately from her husband. Some litigation is pending between them and due to this the husband of the petitioner misused her e-mail IDs to get her falsely implicated in the case. Even the SIM card and IP addresses used in commission of the said offences belong to her husband and she has been falsely implicated in the present case.

4. Respondent has filed the Status Report before this Court, which reads as under:-

> "That during the course of investigation, statement of complainant Shri Anil Kumar, Administrative Officer, IICA, Government of India, Ministry of Corporate Affairs, IMT, Manesar Haryana was recorded. He stated same facts which were mentioned in his complaint and provided relevant documents which were taken on file including the documents which were supplied by the applicant accused at the time of joining the IICA.
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> That during the course of further investigation Shri Subhash Nagarkoti, Business Manager, Institutional Business-Digital of Reliance Retail Ltd. (RIL) has also been examined who stated that the above mentioned purchase order regarding supply of electronic products

amounting INR 11,75,000/- was received by them through email from one Runa Pasricha who represented herself as purchase head of IICA. In furtherance to the above purchase order they had further correspondence with the applicant accused through the following email IDs:

(i) iicaprocurement@gmail.com
(ii) Runa.pasricha@gmail.com
(iii) iicapayments@gmail.com

That he further stated that he also had telephonic conversation with a lady representing herself as Runa Pasricha on mobile number 9999300498 regarding delivery of above ordered electronic goods. The alleged Runa Pasricha had also sent them PAN&GST certificate and PO on 15.01.18 through email. She had also provided her address as 48, Munirka Vihar, New Delhi for delivery of above mentioned Electronic Items. He further stated that after having some suspicion, he visited the office of IICA, Government of India, Ministry of Corporate Affairs, IMT, Manesar Haryana for the verification of above mentioned purchase order and on enquiry he came to know that alleged Runa Pasricha had left the company 2 years ago.

That during the investigation 65 pages of email conversations exchanged between Reliance and alleged Runa Pasricha have been obtained from Shri Subhash Nagarkoti along with certificate u/s 65B Indian Evidence Act through seizure memo.

That during the course of investigation CDR and CAF of alleged mobile number 9999300498 had been obtained from Modal officer and scrutiny of the same revealed that this number was procured by Mr. Chetan, S/o Shri Rajender R/o 16/561G, Tank Road, Karol

Bagh, Delhi (husband of applicant accused Runa Pasricha). Mr. Chetan Rajput has also been interrogated in this regard who told that this number was procured by him and the same was being use by his wife (the applicant accused Runa Pasricha). CDR analysis of mobile numbers of accused Runa Pasricha revealed the connectivity between Runa Pasricha and complainant Sh. Subhash Nagarkoti on the alleged dates.

That during investigation internet logs of email IDs being iicaprocurement@gmail.com,iicaprocurement@gmail.com and Runa.pasricha@gmail.com have been obtained from the service provider Google Inc. and confirmation SMS was sent on mobile No.9999300498.

That on the basis of IP addresses received from Google further Technical investigation was conducted which revealed that email IDs iicaprocurement@gmail.com and iicaprocurement@gmail.com were created by using IP address of CJM Consultancy Services Pvt. Ltd. Allotted to Mr. Chetan Rajput S/o Shri Rajinder Prasad, R/o 48, Munirka Vihar, New Delhi and confirmation SMS was sent on mobile No.9999300498 (being used by Runa Pasricha).

During further technical investigation it revealed that email ID runa.pasricha@gmail.com was accessed from mobile number 9999300498.

That as mentioned in foregoing paras that mobile No.9999300498 is in the name of Sh Chetan Rajput and the same was being used by applicant accused Runa Pasricha. It is also pertinent to mention here that the Recovery email id of email iicapayments@gmail.com is runa.pasricha@gmail.com

That as stated above that address for the delivery of above mentioned ordered goods was provided by the applicant accused Runa Pasricha as H. No.48, MunirkaVihar, New Delhi, Shri Deepak Khattar, s/o Shri Y. Kumar, R/o A-1/2, Vasant Vihar,Delhi, accordingly further investigation was conducted in this regard which revealed that it was a rented accommodation taken on rent by Chetan Rajput where he was living along with his wife Runa Pasricha (the applicant accused). In this regard owner of the above property Sh. Deepak Khattar has been examined and during examination he stated that he had given his above mentioned flat on rent to Chetan Rajput where he was residing alongwith his wife Runa Pasricha from September 2017 to March 2018. He further stated that rent of the above flat was being paid either through bank or in cash. On certain occasions the rent was paid in owner's account number 00111930009277 (HDFC bank) from the account number 50100182103620 (HDFC bank) of applicant accused Runa Parischa. Relevant detail in this regard has been obtained from the HDFC bank which reflects the relevant entries.

That the applicant accused is also involved in the following two cases:

1. FIR No. 92/16, Dt 20.02.16 U/ 409 IPC, PS: Manesar, Haryana. This was registered against her by B.S. Chopra, Sr. Executive Admin., IICA while she was working in IICA as a consultant. The amount involved in the matter is INR 16,53,020/. She was arrested in this case and presently is on court bail.

2. FIR No. 195/18, Dt. 05.03.18, U/s 180/420/467/468/471 IPC & 66D IT Act, PS DLF, Gurugram, Haryana was registered against her by Infiniti Retail Limited (Croma), Sector 29,

> Gurugram, Haryana for cheating of an amount of INR 20,48,657/- by adopting same modus operandi as of present case. She was also arrested in this case and presently is on court bail.

> Mobile phones/ SIM/computers/ laptop which were used by her for sending the alleged mails and used for conversation with Sh. Subhash Nagarkoti are yet to be recovered from her possession.
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> She joined the investigation on 16.07.19 but did not co-operate in the investigation. She was supposed to join the investigation again on 20.07.2019 to produce the above mentioned electronic gadgets but neither she joined the investigation nor produced any electronic gadgets.
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> In the light of the aforementioned facts & circumstances it is proved without any iota of doubt that the applicant accused is the mastermind of this attempted cheating. Mobile phones/SIM/computers/ laptop which were used to commit this crime are yet to be recovered from her possession. This attempt of cheating was made by her using the name of IICA. The applicant accused has a criminal history as already mentioned."

5. Learned APP for the State addressed the arguments on the same lines in terms of the aforesaid status report.

6. In view of the aforesaid submissions of the learned Senior Counsel for the petitioner as well as the arguments of the learned APP, it would be appropriate to reproduce the relevant portions of the impugned order dated 27.07.2019:

> "It is observed that in the investigation conducted so far, it has been revealed that the above purchase order

was a fake purchase order and it is alleged that it was placed in the name of applicant. It has also been revealed that the applicant had worked with the said Institute in the capacity of a Consultant during the period w.e.f. 01.08.2014 till 08.02.2016 and thus, on the day of placement of the said order, i.e. 15.01.2018, she was not working with the Institute. Admittedly, three different IP addresses have been used in the commission of alleged offences and it has also been revealed during investigation that all these IP addresses have been allotted to one Chetan Rajput, who is husband of the applicant, at his different residential addresses, including one address of Munrika vihar, New Delhi. It has also been revealed that the applicant as well as her husband Chetan Rajput had both resided at these addresses as tenants.

Admittedly, there is no document or submission made on behalf of the applicant that any matrimonial litigation between them was pending on the date when the above purchase order was placed or that they were not residing together on the said date, though it has been stated that they had separated after the said date. Further, IO has also informed that during investigation, the husband of applicant has stated that the SIM of mobile number which has been used in obtaining the above IP addresses as well as in the above conversations was though subscribed in his name, but the same was being used by the present applicant. Even the email IDs used in the present case are in the name of present applicant only. It has further been reported that previously also, the applicant had been involved in two cases, i.e. one being FIR No.92/16 under Section 409 IPC, PS: Manesar, Haryana in which she is alleged to have cheated an amount of more than Rs.16 lacs pertaining to the above Institute, and the other being FIR No.195/18 under Sections 180/420/467/468/471 IPC and 66D IT Act, PS Gurugram, Haryana, for

> cheating more than Rs.20 lacs pertaining to a company named Infiniti Retail Ltd. (Croma), Sector-29, Gurugram, Haryana and she had earlier remained in custody for a period of more than one year in these cases. It has further been reported that she had though joined the investigation of this case on one date, but she was not cooperating in investigation. It has also been stated that some incriminating documents being the above mobile phone, SIM card, computer and laptop etc. used in the commission of alleged offences are yet to be recovered.
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> Hence, in view of the above facts and circumstances, this Court is not inclined to grant anticipatory bail to the applicant at this stage as her custodial interrogation may be required. Therefore, this bail application is dismissed."

7. There is no doubt that the anticipatory bail may be granted when there is material on record to show that prosecution was inherently doubtful or where there is material on record to show that there is a possibility of false implication. However, when the element of criminality is involved; the custodial interrogation is required and/or the other aspects and facts are required to be unfolded in investigation, the applicant is not entitled for anticipatory bail.

8. It is also well-settled law that while considering the question of grant of anticipatory bail, the Court *prima facie* has to look into the nature and gravity of the alleged offence and the role of the accused. The Court is also bound down and must look into, while exercising its power to grant bail, the antecedents of the applicant and also the possibility of the applicant fleeing from justice, apart from other factors and parameters in view of the facts of each and every case.

9. In the matter of ***Dr. Subhash Kashinath Mahajan v. State of Maharashtra & Anr.***, in Criminal Appeal No.416/2018, decided on 20.03.2018, the Supreme Court has held as under:

> "112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:
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> (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
> (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
> (iii) The possibility of the applicant to flee from justice;
> (iv) The possibility of the accused's likelihood to repeat similar or other offences;
> (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
> (vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;
> (vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
> (viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be

> prevention of harassment, humiliation and unjustified detention of the accused;
> (ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
> (x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

10. Learned Senior Counsel for the petitioner, on the query of the Court, admitted about the pendency of the two criminal cases, as stated in the status report, however, submitted that the petitioner has been granted bail in both the criminal cases.

11. It is also admitted that the petitioner has remained in custody for a period of more than one year in the aforesaid criminal cases.

12. It has also been argued on behalf of the prosecution that the petitioner, though joined investigation on one date, however, she was not cooperating in the said investigation. The custodial interrogation of the petitioner is required in this case to determine the *modus operandi* as well as for the recovery of the mobile phones/SIM/ computers/laptop which were used by her for sending the alleged mails and for conversation with Subhash Nagarkoti, which are yet to be recovered from her possession. The petitioner was supposed to join investigation again on 20.07.2019 to produce the aforementioned electronic gadgets, but, as stated, neither did she join the investigation

nor did she produce any electronic gadgets. The petitioner is stated to be the mastermind of this attempted cheating. Mobile phones/SIM/ computers/laptop, which were used to commit this crime, as stated, are yet to be recovered from her possession.

13. The investigation is still stated to be ongoing. The petitioner, as stated herein, has not cooperated in the investigation and has not produced the aforesaid electronic gadgets.

14. The pendency of the aforesaid criminal cases itself demonstrates the criminal antecedents of the petitioner as well as her criminal history. I do find force in the arguments of the learned APP for the State that the custodial interrogation of the petitioner is required to determine the *modus operandi* as well as for the recovery of the mobile phones/SIM/computers/laptop which were used by her for sending the alleged mails and also for conversation with Subhash Nagarkoti.

15. In view of the aforesaid facts, as discussed hereinabove and also taking into consideration the nature and the gravity of the accusations, stage of the investigation and the alleged role of the petitioner in the offence, the antecedents of the petitioner, the possibility to repeat similar or other offences and impact on the public in case the anticipatory bail is granted to the petitioner and the prejudice which may be caused to free, fair and full investigation, this Court does not find any merit in the anticipatory bail application of the petitioner and the same is accordingly dismissed.

16. It is clarified that whatever is discussed hereinabove is only a *prima facie* view of this Court, at this stage, and the same shall not tantamount to any expression or opinion on the merits of the case.

CHANDER SHEKHAR, J

OCTOBER 15, 2019/tp