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

% **Date of Decision: 16.12.2019**

\+ **BAIL APPLN. 2184/2019**

Vinod Kumar Singhal ..... Petitioner

Through: Mr. Saleem Ahmed, Ms. Charu Dalal, Mr. Akbar Siddhiqui, Ms. Paru Garg & Mr. Ajay Pratap Singh Advocates.

versus

THE STATE OF DELHI ..... Respondent

Through: Mr Tarang Srivastava, APP for State alongwith Insp. Satish & SI Murari Lal, PS DBG Road.
Mr. Kirti Uppal, Senior Advocate with Mr. Vijay Kasana & Mr. Siddharth Pratap Singh, Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J (ORAL)

1. Vide this order, I shall dispose of an anticipatory bail application filed on behalf of the petitioner Vinod Kumar Singhal under section 438 Cr.P.C. in FIR No. 89/2019 u/s. 420/34 IPC.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail

on the ground that petitioner is innocent and has been falsely implicated in the present FIR. It is submitted false FIR has been registered against the accused persons u/s. 420/34 IPC in the PS DBG Road which is not having the jurisdiction as no offence has been committed in the jurisdiction of the said PS and complainant is also not residing in the jurisdiction of said PS. The police came to the residence of petitioner along with the complainant and misbehaved with the petitioner and other family members. It is submitted that daughter of the petitioner is staying in Noida along with her friends. The police officers along with the complainant entered the house in the middle of the night and harassed them badly. It is submitted that present case is a civil dispute which has been given a flavour of criminal complaint. The petitioner is diabetic and a heart patient and is having other old age problems.

3. It is submitted that petitioner had moved anticipatory bail application which was dismissed by the Ld. ASJ, (Central), THC, Delhi on 20.08.2019.

4. Ld. Counsel for the petitioner has submitted that earlier interim protection was given to the petitioner on the assurance that matter may be settled amicably. However, parties have failed to arrive at any amicable settlement. The petitioner has, however, deposited a sum of Rs. 30,00,000/- before the Ld. Trial Court. It is submitted that whole of the amount stands paid to the complainant. In this regard, the Ld. Counsel for the petitioner has shown documents also.

5. It is submitted by Ld. counsel that petitioner is ready to join

the investigation as and when required and it is, therefore, prayed that petitioner be granted anticipatory bail in the event of his arrest.

6. The application is opposed by the Ld. APP for the State on the ground that the allegations against the petitioner are serious in nature. He is involved in an offence of cheating and criminal conspiracy. Ld. APP has, therefore prayed for dismissal of the bail application.

7. I have considered the rival submissions. Learned Counsel for the petitioner has relied upon the following case laws;

i). H.B. Chaturvedi vs. CBI, 2010 [3] JCC 2109.
ii). Bhadresh Bipinbhai Sheth Vs. State of Gujrat & Anr., Crl. Appeal Nos. 1134-1135 of 2015 [arising out of SLP (Crl.) Nos. 6028-6029 of 2014]
iii). Jitender Kumar vs. Govt. of NCT of Delhi, Bail Appl. No. 2707/2015 and Crl. M. (Bail) No. 8361/2015.
iv). Amit Kumar vs. State of Bihar, Crl. A.(SJ) No. 1762/2019[arising out of PS. Case No.7 Year 2019 Thana-Mirrwan, Distt. Siwan.
v). Siddharam Satligappa Mhetre vs. State of Maharashtra and Ors., AIR 2011 SCC 312,
vi) Lalita Kumar Vs. Govt of U.P & Ors., 2013 SCC Online SC 999.

I have gone through the above case law. There is no quarrel with the proposition of law laid down therein. However, this bail application is distinguishable on the basis of facts and circumstances stated herein. The complainant Mr. Sahab Singh, who is authorized representative of M/s. Kamdhenu Global Ltd. and Devine Solution Private Ltd. had given a written complaint at PS DBG Road alleging that petitioner along with his co-accuseds visited the house of victim

Sh. Tarun Swaroop Aggarwal and represented them as big property owner in MP including flour mill in MP. They allured the complainant that huge profit can be generated by buying their family business/ flour mill. The complainant purchased the flour mill, after that alleged persons offered him to supply the raw material i.e. Chana, Wheat and other related products at subsidized/ cheaper rates. On the inducement of alleged persons, the complainant initially made payment of Rs. 30 lacs which were transferred through RTGS in account No. 06105011000545 of petitioner Vinod Kumar Singhal maintained in OBC Bank, Guna, MP for starting the said flour mill. The complainant also paid Rs.65 lacs to the accused persons from another firm namely M/s. Divine Solutions Pvt. Ltd. for the same purpose but after making the entire payment, the petitioner neither turned up nor supplied any raw material for starting the said flour mill and caused wrongful loss to the complainant. The complainant started putting pressure upon the alleged persons to refund his amount Rs.95,00,000/-. The alleged persons returned Rs. 50,00,000/- to gain trust of the complainant. After some time co-accused Manju Singhal and Mayank Singhal approached the complainant and stated that due to some difficulty they were not able to supply the consignment and assured that if the complainant makes further payment in advance they guarantee the supply of raw material. As the complainant's flour mill was non-functional due to unavailability of raw material and his payment for raw material was struck with the accused and he was incurring increasing losses, the complainant agreed for the same and again transferred Rs.57,00,000/- to the accused persons. But despite this, the accused persons did not supply the raw material and when he pressurized the accused persons for either delivery of material or return of his advance payment, they started extending threats to the complainant and stated that in case either the complainant or any one on his behalf visits Guna, MP, they will have to face dire consequences.

9. On complaint of the complainant, present FIR was registered after preliminary enquiry. The alleged transactions between the complainant and accused persons were got verified from respective banks and transactions details were also obtained. Perusal of which confirmed the payment to accused persons from the account of the complainant's firm. A notice u/s. 41-A CrPC was served upon the petitioner on 26.05.2019 to join the investigation on 03.06.2019, but he had not joined the investigation. Subsequent to which NBWs were issued against him. Petitioner was declared as absconder on 19.09.2019 by the Ld. Trial Court. Proceedings under Section 82 CrPC have been initiated against the petitioner as well as co-accused Manju Singhal.

10. The perusal of the above facts reveals that the petitioner alongwith her family members has entered into a criminal conspiracy and cheated the complainant of an huge amount of Rs. 1,20,00,000/- (Rs. One Crore and Twenty Lacs) approximately. So far as contention of the petitioner that whole of the cheated amount has been paid is concerned, this court is of the opinion that the documents filed by the petitioner cannot be considered at this stage

for the reason that at the stage of bail, the Court is not supposed to appreciate and analyse the evidence appearing on record. The case is still at the initial stage of investigation. Deposit of a part of the cheated amount does not entitle the petitioner to grant of anticipatory bail when still according to prosecution a large amount is yet to be recovered. Moreover, this Court cannot ignore the fact that petitioner is not joining the investigation and NBWs were issued against him. Even proceedings under Section 82 CrPC have been initiated against him and custodial interrogation of the petitioner is also required to recover the cheated amount and, therefore, no grounds for anticipatory bail are made out. The anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

DECEMBER 16, 2019

Amit