

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

Reserved on : 06.09.2019

% *Pronounced on : 16.09.2019*

+ **BAIL APPLN. 2231/2019**

GAURAV MAVI

..... Petitioner

Through : Mr. Mukul Gupta, Sr. Advocate
with Mr. Indresh Upadhyay,
Mr. Tushar Gupta, Mr. Akshat
Kumar and Mr. Sumit Kr. Mishra,
Advocates

versus

STATE (N.C.T. OF DELHI) Respondent

Through Ms. Rajni Gupta, APP for the
State with Inspector Ved
Parkash, SHO P.S.-Mehrauli
and SI Satyender Gulia, PS-
Mehrauli.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

BAIL APPLN. 2231/2019 & Crl.M(B) No. 1571/19

1. This is the second application filed under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No. 349/2019 U/s 33/38/58 of Delhi Excise Act & 20/21 of NDPS Act registered at Police Station-Mehrauli.

2. It is submitted by the Ld. counsel for the accused that there are no specific allegations in the FIR against the petitioner and he was not even present at the place of incident. He further submitted that the investigating agency is acting against the petitioner only on the basis of the disclosure statement made by co-accused Pulkit Rastogi in whose disclosure statement the name of the petitioner has come up for the first time. He further submitted that it is co-accused Pulkit Rastogi from whom the psychotropic substances were recovered. He further submitted that the charge sheet has already been filed and there are no chances of the petitioner to tamper with the evidence. It is further argued by the Ld. counsel for the petitioner that all 7 accused except accused Pulkit Rastogi have been granted regular bail. It is further submitted by the Ld. counsel for the petitioner that the petitioner has always made himself available for the investigation and he has even written an email dated 18.07.2019 to the SHO concerned.

3. On the other hand, it is urged by the Ld. Addl. PP for the state that the petitioner was one of the chief organizer of the party and co-accused Pulkit Rastogi in whose possession the narcotics and psychotropic substances were found disclosed that it was the petitioner who provided the narcotics and psychotropic substances to him at the party for selling the same to the persons who came to attend the party and the petitioner also provided two weighing machines for weighing the psychotropic substances before selling.

4. It is further submitted by the Ld. Addl. PP for the state that the Land Cruiser car bearing No. DL-1CT-4678 found at the place of

occurrence with huge amount of liquor belongs to the petitioner and mobile phone, wallets and a personal diary having the organizing details of the party were also recovered from the Land Cruiser of the petitioner. It is further submitted by the Ld. Addl. PP for the state that narcotic and psychotropic substances were recovered from the party being organized and the source of narcotic substances recovered is yet to be ascertained. It is further urged by the Ld. Addl. PP for the state that the accused is an influential person and he may hamper the investigation and tamper with the evidence if released on bail and detail custodial interrogation of the petitioner required to unearth the whole conspiracy. It is further urged by the Ld. Addl. PP for the state that the charge sheet in the case against other eight accused persons has already been filed on 07.08.2019 before the Trial Court. It is further submitted by the Ld. Addl. PP for the state on the instructions from the IO that the proceedings U/s 82 Cr.P.C have already been initiated against the petitioner. Ld. Addl. PP for the state further submitted that the petitioner has withdrawn his anticipatory bail application from this Court on 22.07.2019 and now there are no new fresh grounds for filing this second anticipatory bail application. It is further urged by the Ld. Addl. PP for the state that the petitioner is deliberately evading his arrest and he also has criminal antecedents in the past.

5. Heard. Record perused.

6. The first bail application moved by the petitioner before this Court was dismissed as withdrawn on 22.07.2019. During the course

of the arguments it has been contended by the Ld. counsel for the petitioner that the petitioner was always available for investigation and in this regard he has even written an email dated 18.07.2019 to the SHO concerned. In my opinion, this contention of the Ld. counsel for the petitioner has no force in it because after the date of the email the previous bail application was dismissed as withdrawn vide order dated 22.07.2019 and after this date there is nothing on record to show that the petitioner made himself available for the investigation rather, it is the case of the prosecution that the petitioner is not joining the investigation and now proceedings U/s 82 Cr.P.C have been initiated against him. This is the second anticipatory bail application of the petitioner and there are no fresh grounds for moving the same and the counsel for the petitioner has also not been able to point out what are the fresh grounds for moving this bail application.

7. During the course of the arguments, it has also been argued by the Ld. counsel for the petitioner that the petitioner has been falsely implicated only on the basis of the disclosure statement of co-accused Pulkit Rastogi but the investigation which has been done till date reveals that the petitioner was one of the chief organizer of the party and his Land Cruiser car bearing No. DL-1CT-4678 containing huge amount of liquor was also found at the place of occurrence.

8. The allegations against the petitioner are grave and serious in nature. The petitioner is allegedly involved in organizing the illegal party where liquor was served with narcotics and psychotropic substances and the same were recovered from the place where the

alleged party was organized. The nexus of narcotic and psychotropic substances and the procurement of high amount of liquor is to be unearth. It is also alleged against the petitioner that a personal diary having the organizing details of the party was also recovered from the Land Cruiser of the petitioner. The petitioner is not joining the investigation, evading his arrest and now proceedings U/s 82 Cr.P.C have been initiated against him. Therefore, looking into the nature and gravity of the offence and the allegations against the petitioner which are very serious in nature, I am not inclined to grant anticipatory bail to the petitioner, the application is, therefore dismissed.

9. In view of the order passed in Bail Appln. 2231/2019, the CrI.M(B) No. 1571/19 also stands dismissed.

RAJNISH BHATNAGAR, J

SEPTEMBER 16, 2019

Sumant