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

+ **BAIL APPLN. 1754/2018**

SANJEEV KUMAR @ SANJAY Petitioner
Through Mr. Pradeep Kumar, Mr. Rakesh
Sharma, Advs.
versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent
Through Mr. Hirein Sharma, APP for State
SI Virender Kumar, PS Mahender
Park
Mr. Satish Kumar Malik, Adv. with
complainant Ms. Usha Verma.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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28.11.2019

Vide the present petition, the petitioner seeks anticipatory bail in FIR No. 175/2018, under Section 420/406/34 IPC registered at police station Mahindra Park.

It is submitted in the present petition that the petitioner has been doing the business of commission agent of fruits under the name & style "M/s Balaji Fruit Company, BFC-D-1280, New-Subzimandi, Azadpur, Delhi and also been suffering from heart ailment, asthma, BP, Diabetic, fractured leg etc.

He has been doing the business with one Sh. Rakesh Kumar Verma S/o Sh. Ganga Ram Verma R/o VPO Bagri, Tehsil Thyog, Distt. Shimla, Himachal Pradesh (the husband of the complainant of present case namely Smt. Usha Verma). During 06.07.2015 to 08.08.2015, the Petitioner had

deposited excess amount to the tune of Rs. 5, 95, 853/- (Rupees Five Lacs Ninty Five Thousand Eight Hundred and Fifty Three only) in the bank account of Rakesh Kumar Verma. Thereafter, the petitioner repeatedly requested to Rakesh Kumar Verma to return the said amount, however, he kept delaying on one pretext or other. Aggrieved by his acts, the petitioner sent a legal notice through his Counsel which was duly served upon Rakesh Kumar Verma. He duly received the same and opted not to reply to the said Legal Notice. Hence, the present case is nothing more than a conspiracy hatched by the Complainant in collusion with her husband and local police just to grab the said amount of the Petitioner, who in fact is the victim at the hand of the Complainant and her husband.

Learned counsel appearing on behalf of petitioner submits that the Petitioner/accused has never done any business with the Complainant, rather seeing the conduct of the husband of the Complainant the Petitioner has even stopped doing business with him. Petitioner has no concern with any allegations leveled in the present FIR in question.

Learned APP appearing on behalf of the State submits that petitioner had admitted in writing before the IO of the case that he shall return Rs.50,000/- on or before 31.01.2019 and remaining ₹1,50,000 on or before 31.05.2019, however, despite the admitted fact, the petitioner has not paid the amount.

The case of the petitioner is that he had given an amount of ₹5,95,853 to the husband of the complainant, which has not been returned, and to this effect he has shown some documents to this Court.

The petitioner has made complaint against the complainant and her husband stating that the complaint against the petitioner is baseless as the

petitioner had not done any business with the complainant.

The case of the complainant is that she had sent two trucks carrying fruits from Himachal Pradesh to the company of the petitioner worth ₹8,46,629 on 23.07.2017 and 25.07.2017, and the amount received in the name of her husband was of that consideration, however, thereafter, the complainant supplied the same through Nasir, who is associated with the petitioner and the said amount has not been paid. Thus, she has been cheated by the petitioner.

In view of above, the IO of the case has to take into consideration, the documents of the petitioner and the complainant. Therefore, the custodial interrogation of the petitioner is required. Accordingly, I am of the view that the present case is not fit for granting anticipatory bail.

The IO is directed to verify the documents filed by the complainant and the petitioner. Till then, no coercive steps shall be taken against the petitioner. However, if the IO comes to the conclusion that the documents are not produced, as required in the present case, he shall take permission from the concerned DCP for custodial interrogation.

Since the transaction as alleged had taken place between the husband of the complainant for fruits supplied to the petitioner, the IO of the case is directed to interrogate the husband of the complainant based upon the documents and thereafter, the IO shall take decision whether chargesheet is to be filed against the petitioner or not.

The petition is accordingly disposed of.

Order *dasti*.

SURESH KUMAR KAIT, J

NOVEMBER 28, 2019/ms