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

+ BAIL APPLN. 2085/2018 and CrI. M.A. 31519/2018

SAMDEV DASGUPTA Petitioner

Through: Mr. Jasmeet Singh and Mr. Srivats
Kaushal, Advocates with petitioner in person

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr. Amit Ahlawat, APP for State with
SI Kamal Kishore

Mr. Anirudh K. Mudgal, Adv. for R-2 with R-2 in
person

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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11.01.2019

During the course of investigation into FIR no.198/2016 registered by police station Chittranjan Park at the instance of the second respondent, it involving offences punishable under Sections 420, 468, 471, 120B, 34 IPC, the petitioner was arrested. On his application (no.668/2017), he was initially admitted to interim bail but eventually in the wake of some settlement, released on regular bail by the court of Sessions by order dated 29.04.2017. It appears there was default in compliance with the settlement that had been reached and this resulted in the order of bail being recalled by the court of Sessions by order dated 03.02.2018.

The petitioner again applied for bail (application no.1528/2018) which was declined by order dated 01.09.2018 whereafter he approached this court by the present petition.

The background facts and the submissions made at the hearing on this application recorded at length on 06.09.2018 may be noted *verbatim*. The same read thus :-

“...The applicant/petitioner is one of the several persons against whom allegations, inter alia, of cheating have been levelled in the FIR no. 198/2016 of police station Chittaranjan Park which is pending investigation on the basis, inter alia, of a memorandum of understanding (MOU) dated 29.04.2017. He having undertaken to pay the outstanding amount claimed by the complainant in certain instalments, the court of sessions had earlier released him on interim bail which was later confirmed as regular bail, directions having been given binding him with the obligations accepted under the said MOU. The time for payment of certain instalments was extended by certain subsequent orders including one passed by this Court on 22.11.2017 in Crl.M.C. No. 4240/2017. Upon a perusal of the said order dated 22.11.2017 and the submissions made by the counsel on both sides, it appears that out of total amount claimed by the complainant to be due, the petitioner appears to have paid the substantial portion leaving a balance of Rs.28 lakhs besides liability to pay interest over and above the said amount at 9% per annum. The timelines indicated in the order dated 22.11.2017 were not abided by and this led to bail being declined.

The petitioner has come up to this Court with this fresh round of petition, now bail application no. 2085/2018 seeking release on bail by offering to pay the balance amount in two instalments, first on 20.10.2018 and the second on 03.12.2018. During the course of

hearing, however, the learned counsel for the petitioner, upon instructions, submitted that in order to show his bona fide he is ready and willing to pay Rs. 8 lakhs as the first instalment on or before 20.09.2018 followed by payment of the second instalment of Rs.10 lakhs on or before 20.10.2018, and the last of Rs.10 lakhs with interest on or before 03.12.2018.

The learned counsel for the complainant submitted, on instructions, that he is ready to accept the balance money in above terms, his anxiety being that the petitioner may again fail to adhere to the undertaking given.

Given the above undertaking, this Court finds it proper to show one more indulgence to the petitioner. Subject to scrupulous compliance with the abovementioned undertakings, protection against arrest is granted till next date of hearing. It is made clear that in case the petitioner fails to make payment of any of the above three instalments, he would have forfeited the right to further protection.

In order to ensure that the conditions are not flouted nor any further extension of time is sought, the petition shall remain pending and shall be listed on each of the three dates, i.e. 20.09.2018, 22.10.2018 (as 20.10.2018 being Saturday would not be a court working day) and 03.12.2018. The petitioner and the second respondent, i.e. the complainant shall appear in person on the said dates. The payment of the instalments will be in the form of demand draft of which a copy shall be served on the investigating officer as well.

The matter be listed on 20.09.2018, 22.10.2018 and 03.12.2018...”

The amount indicated in the aforementioned proceedings of

06.09.2018 was not paid scrupulously as per the time lines indicated. With the consent of the second respondent, the schedule was recast from time to time, some deferments having been taken even with the revised schedule, this having resulted in the petitioner having undertaken to bear enhanced responsibility. Eventually, as was recorded in the order dated 03.12.2018, the balance having been paid by the petitioner to the second respondent, the remainder was in the amount of Rs.27 Lakhs, out of which Rs.10 Lakhs was paid on 18.12.2018. The second respondent, who is present in person with her counsel confirms that the remaining Rs.17 Lakhs has also been paid to her by the petitioner in the form of a demand draft bearing no.505677 dated 09.01.2019 issued by the ICICI Bank.

Against the above background, the second respondent submits no objection to the bail order granted to the petitioner initially on 29.04.2017 by the court of Sessions on bail application (no.668/2017) to be revived and restored. The learned Additional Public Prosecutor on being asked submitted that he leaves the matter to the discretion of the court.

In the foregoing facts and circumstances, bail application is allowed. Order releasing the petitioner on regular bail granted by the court of Sessions on 29.04.2017 on bail application (no.668/2017) is revived and restored.

This disposes of the pending application as well.

Dasti.

R.K.GAUBA, J.

JANUARY 11, 2019/yg

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