

\$~7

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

Date of decision: 09.01.2020

+ CRL.REV.P. 1056/2019

KHALIK RAHMAN (AHMAD) Petitioner

Through: Mr. Shantanu Sharma, Adv.

versus

STATE

..... Respondent

Through: Mr.Panna Lal Sharma, APP for State.
Mr. Parul Goel, s/o Roshal Lal Goel
Insp. C. R. Meena, SHO, SI Sunder
Singh, PS BHD Nagar

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. Vide the present petition, the petitioner seeks direction thereby to quash the order dated 18.03.2019 passed in B.M. Number 1268 of 2019 passed by Ld. Addl. Sessions Judge, Dwarka.

2. Brief facts of the case are that an FIR bearing No. 75 of 2018 was registered on 13/4/2018 against the Petitioner and 3 other accused persons. The role of the Petitioner is limited to introducing the complainant to the other accused persons and no involvement of the Petitioner in the commission of crime has been alleged.

3. The petitioner moved an application under section 437 before the Ld. MM, Dwarka as the petitioner was in custody since 30.5.2018, he was granted bail vide order dated 08.06.2018.
4. The other accused persons i.e. Sumer Chand Joshan, Sunil Kumar Joshan and Anil Kumar Joshan entered into an MOU with the complainant and vide order dated 17.07.2018 were granted conditional bail based on the cheques issued to the complainant and the assurance to pay Rs. 1.55 crores in future.
5. The complainant moved the Ld. Additional Sessions Judge, Dwarka in B.M. No. 1268/19 seeking cancellation of bail for all accused persons as the cheques issued by Sumer Chand Joshan for Rs. 30 lakhs were dishonored. However, the Ld. Additional Sessions Judge being unmindful of the fact that the bail granted to the Petitioner was unconditional and he had not even signed the MOU or issued the cheques cancelled the bail of the Petitioner.
6. Learned counsel for the petitioner submits that the petitioner was not even issued notice or made aware of the application for cancellation of bail or he would have brought the accurate facts to the notice of the Ld. Additional Sessions Judge.

7. The Petitioner found out about the order of Ld. Additional Sessions Judge on 20.07.2019 when NBW were issued against the Petitioner and the Petitioner sought their cancellation.

8. On finding out about the order dated 18.03.2019, the Petitioner sought modification of order dated 18.03.2019, however the Ld. MM was not inclined to interfere as the appropriate remedy against the order is in Revision Petition. Therefore, the application for modification/correction was withdrawn, thus, the present petition is filed.

9. I note that in order dated 08.06.2018 an application under Section 437 Cr.P.C., learned MM, Dwarka, New Delhi while granting bail recorded that the role of petitioner herein is that *“he merely introduced the complainant with the accused persons. Apart from this, accused has neither received any paddy from the complainant nor has any role to play in the monetary transactions between the complainant and the petitioner herein.”*

10. Keeping into that situation, the learned Metropolitan Magistrate and the learned Additional Sessions Judge would have applied mind to the facts and role of the petitioner in case FIR No.75/2018.

11. However, keeping in view the role of the petitioner, I hereby quash the order dated 18.03.2019 and further direct that the order dated 08.06.2018

passed by learned MM shall remain in force.

12. The petitioner is allowed and disposed of accordingly.

13. Order *dasti*.

(SURESH KUMAR KAIT)
JUDGE

JANUARY 09, 2020
ms

