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

+ BAIL APPLN. 2875/2019

DHEERAJ KUMAR SINGH

..... Petitioner

Through Ms.Rebecca M. John, Sr. Adv. with
Mr.Paritosh Anil, Ms.Megha Bahl &
Ms.Maulshree Pathak, Advs.

versus

C.B.I.

..... Respondent

Through Mr.Anupam S. Sharrma, Adv. with
Mr.Prakash Airan, Adv.

+ BAIL APPLN. 3057/2019

DINESH CHAND GUPTA @ DINESH KHANDELWA

..... Petitioner

Through Mr.Mohit Mathur, Sr. Adv. with
Mr.Kushal Mangal, Mr.Tarun Gaur &
Mr.Harsh Gautam, Advs.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through Mr.Anupam S. Sharrma, Adv. with
Mr.Prakash Airan, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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31.01.2020

1. The present petitions are filed under section 439 Cr.P.C. on behalf of petitioners for grant of bail in case bearing RC No.01(A)/2019/AC-III for

the offences punishable under section 7A/8/9/10/12 of P.C. Act registered at Police Station CBI, AC-III, New Delhi.

2. The brief facts of the case as stated in present petition are that on a written complaint received from Head of Branch/DIG, ACB, New Delhi (complainant herein) on 11.09.2019 stating that Petitioner was known to complainant and had asked him to meet accused no.2 who claimed to be representative of accused no.4 company in order to get an inquiry settled in favour of the company which was pending with CBI. For the aforesaid work, they had offered him a bribe of Rs.2 Crores. The complainant requested that necessary legal action may be taken in this regard for attempting to bribe a public servant. Based upon the said complaint, a trap was laid with the help of an independent witness and a verification officer of the department. An audio recording device was used and conversation between the Complainant and Petitioner and accused nos.2 and 3 was recorded on 11.09.2019 during a meeting arranged at around 11.10 pm near the CBI Headquarters. A verification report was prepared on 12.09.2019 at around 12.10 am in CBI Headquarters and on the basis of the same, the present RC was registered against the Petitioner and other accused persons.

3. It has been further stated in the petition that on 12.09.2019, Petitioner

was wrongly arrested by Investigating Agency from his residence at around 1.40 am and a recovery of alleged bribe amount of Rs.16 lacs cash is also shown to have been effected from Petitioner. The residence of Petitioner was also searched at the same time and nothing incriminating has been recovered from his house search. On 12.09.2019, Petitioner and accused no.2 were produced before Ld. Special Judge and the Investigating Officer sought police custody for 7 days, however, Ld. Special Judge granted police custody only for 2 days. On 15.09.2019, Petitioner and accused no.2 were produced before the Duty Magistrate and they were remanded to judicial custody. Since then Petitioner is in judicial custody and completed around 140 days.

4. Learned senior counsel appearing on behalf of petitioner submits that on 10.10.2019, Ld. Special Judge allowed the second bail application of accused no.3 (Director of the accused Company) by taking into consideration the fact that further investigation had been conducted in the matter and also other circumstances relating to age, status of family, period of judicial custody undergone and medical issues of the son and mother of accused no.3.

5. Thereafter on 28.10.2019, second bail application was moved by

Petitioner u/s 439 Cr.P.C. before Ld. Special Judge on the grounds of parity with accused no.3, period of custody and family background etc., which was dismissed by holding that investigation was in its crucial stage of conclusion and police report was expected to be filed.

6. The first, second and third bail application filed under Section 439 Cr.P.C. on behalf of the petitioner, Dinesh Chand Gupta was dismissed vide order dated 17.10.2019, 05.11.2019 and 13.11.2019 respectively.

7. Learned senior counsel further submits that on 08.11.2019, Investigating Agency filed chargesheet before Ld. Special Judge and the same was taken on record but kept for further consideration for 18.11.2019. A cognizance was taken and thereafter petitioner moved a third bail application in anticipation that the chargesheet will be filed within time by the Investigating Agency as stated in the previous bail order. However, on 14.11.2019, the said bail application was dismissed by Trial Court by holding that since all the grounds, except, for the additional ground of filing of chargesheet and additional period of judicial custody, have already been dealt with in the previous bail rejection order, hence, the bail application also fails.

8. Learned senior counsel further submits that while dismissing the said

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application, Ld. Special Judge made an observation that the contention of prosecution that there is a possibility of petitioner tampering with the evidence or influencing the witnesses, is merely an apprehension of the IO and the same is not supported by any fact on record and thus it is only a presumption. Despite the said observation, bail application was dismissed and the same shows complete non-application of judicious mind by Ld. Trial Court.

9. Learned senior counsel further submits that petitioner is innocent and he has been falsely implicated in the present case under the directions of Complainant who is a senior ranking officer of the same Department and investigating the present case. Hence he is actively involved in the entire investigation of the case. The Complainant in the present case has been on friendly terms with Petitioner since past almost 2 years and during this period he had been pressurizing Petitioner to help him internally in the Home Ministry so as to gain undue favours, for which the Petitioner had been refusing him as his official position demanded secrecy and integrity. It seems that refusal on the part of Petitioner has enraged Complainant and he has abused his official position and power to hatch this conspiracy to falsely implicate Petitioner in the present case in order to teach him a lesson.

Simultaneously, portray himself as an upright and honest official, which would help him in his career advancement and promotion.

10. Learned senior counsel submits that investigation in the present case has now fructified into filing of a chargesheet and as such custody of the petitioner is not warranted in view of facts and circumstances of the case.

11. It is also argued that the present case is purportedly a trap case in which the complainant himself is a senior official of CBI being the Head of Branch, DIG, CBI, ACB, Delhi, and the present Petitioner is a government official holding the post of Section Officer with the MHA. Even though CBI had sought 7 days police custody from Trial Court on 12.09.2019, yet, considering the facts of the case Trial Court had deemed it fit to grant police custody only for 2 days. The present case is entirely based upon purported voice recordings prepared as part of the trap and the purported recovery of bribe money which has already been seized by CBI and hence no further investigation is warranted wherein the custodial interrogation of the present Petitioner is required.

12. On the other hand, learned counsel for CBI has opposed the present petition and submits that during investigation, it is revealed that criminal conspiracy was hatched by office bearers of M/s Soma Enterprise Ltd. in

getting relief for the said company in a Preliminary Enquiry pending with CBI, AC II, New Delhi and in furtherance of said conspiracy, Ramchandra Rao Path @ PR Rao (A-3), Vice President of M/s Soma Enterprise Ltd. decided to offer bribe of Rs.2 crores to the complainant Asra Garg, DIG/CBI through Dinesh Chand Gupta (A-2) who contacted Petitioner, working in Ministry of Home Affairs and holding the desk of IPS Officers. Petitioner introduced Dinesh Chand Gupta (A-2) to the Complainant and they met and offered a bribe of Rs. 2 crores to the Complainant for getting preliminary enquiry settled in their favour. Asra Garg, DIG/CBI made a complaint dated 11.09.2019 in this regard to CBI. The said complaint was verified in presence of independent witness and conversation was recorded which confirmed that Petitioner and Dinesh Chand Gupta (A-2) had offered a bribe of Rs. 2 crores to Complainant for getting preliminary enquiry settled in their favour. This offer was also reiterated by co-accused Ramchandra Rao Patri @ PR Rao (A-3) over mobile phone. Thereafter, a trap was laid and Petitioner was caught red handed, in the presence of independent witnesses, while paying bribe of Rs. 16 lacs to the complainant on 12.09.2019 and the said amount was also recovered. Later on, co-accused Dinesh Chand Gupta, representative of M/s Soma Enterprises Ltd. and Ramchandra Rao Patri,

Vice President, M/s Soma Enterprises Ltd (Company) were also arrested.

13. Learned counsel further submits, it is Petitioner who had actually decided the bribe amount as Rs. 2 crores and he had already received Rs. 20 lacs as his share and out of the said amount he delivered a sum of Rs.16 lacs to the complainant on 12.09.2019 as part illegal gratification. The above fact clearly depicts deep involvement of Petitioner in the criminal conspiracy of commission of serious offence of bribing a senior officer of CBI.

14. Learned counsel further submits that investigation is still going on and CBI is going to file supplementary chargesheet against other accused who are involved in the conspiracy. Therefore, at this stage, the petitioner may influence or temper with the evidence, if released on bail. ‘

15. It is not in dispute that main accused Ramchandra Rao Path @ PR Rao (A-3), Vice President of M/s Soma Enterprise Ltd. has already been released on bail who is senior and responsible officer of the company and his release on bail has not been challenged by CBI. The said order thus has attained finality.

16. One of the petitioners/accused is a government servant and another contractor of M/s Soma Enterprise Ltd. The case of the said company is pending for inquiry before CBI and Ramchandra Rao Path @ PR Rao (A-3),

Vice President, who decided to approach the complainant to get the inquiry in favour of company, however, has already been released on bail.

17. Keeping in view the fact that role of petitioner is not more active than that of accused no.3 mentioned above and case of CBI is that the investigation is still going on and they may file supplementary chargesheet. Since, investigation shall take substantial time, therefore, on parity, I hereby grant bail to the petitioners.

18. Accordingly, petitioners shall be released on bail on their furnishing personal bond in the sum of ₹25,000/- each with two sureties of the like amount to the satisfaction of the Trial Court.

19. Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the cases. The Trial Court shall not get influenced by the observations made by this Court, while passing final orders in trial.

20. It is made clear that petitioners shall not influence any of the witnesses and if required for further investigation, they shall make themselves available before CBI.

21. The present petitions are allowed and disposed of.

22. Copy of this order be transmitted to the Jail Superintendent and the

Trial Court concerned for compliance.

23. Order *dasti* under the signatures of Court Master.



SURESH KUMAR KAIT, J

JANUARY 31, 2020

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