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

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Date of Decision: 29.01.2020

+ **BAIL APPLN. 49/2020**

POOJA SONI

..... Petitioner

Through: Mr. M. S. Khan, Mr. Qausar
Khan and Mr. Prashant
Prakash, Advocates.

versus

THE STATE OF DELHI

..... Respondent

Through: Mr Tarang Srivastava,
APP for State.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J (ORAL)

1. Vide this order, I shall dispose of an anticipatory bail application filed on behalf of the petitioner Pooja Soni under section 438 Cr.P.C. in FIR No. 455/2019 u/s. 379/408/34/120-B/201 IPC, P.S. DBG Road (Spl. Staff).

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is innocent and falsely implicated in the present FIR. According to the prosecution Bharat Nathmal Soni (Husband of the petitioner) who was working as a branch manager of HG Jewels used to take gold jewellery/ bullion items from head office to branch office located at Chandni Chowk. It is alleged that

Bharat took gold jewellery/bullion items from head office and not deposited the said items in branch office. It is further alleged that Ashish Soni (brother in law of Bharat Nathmal Soni) is also involved in the commission of the above said offence as he had also worked with HG Jewels in the past.

3. It is submitted that petitioner is married to Bharat Nathmal Soni and is a house wife and she was not fully aware about the work of her husband and not only this but her bank account was also used to be operated/controlled by her husband Bharat Nathmal Soni.

4. It is submitted that the petitioner was present with the accused as being his wife during the time of his arrest but not an accomplice in the alleged offence. It is alleged that the co-accused Bharat Nathmal purchased a Hyundai i-10 Car and one flat in the name of mother of the petitioner but the petitioner was not at all aware about the source of the money as her husband used to operate her account. The petitioner is also not having any details of any transaction of sale of flat as she was not at all aware about the same.

5. It is further submitted that the petitioner moved an anticipatory bail application before the Ld. Session Court which was dismissed on 18.12.2019. The petitioner is ready and willing to join the investigation as and when directed or required and it is, therefore, prayed that petitioner be granted anticipatory bail in the event of his arrest.

6. The application is opposed by the Ld. APP for the State on the ground that the allegations against the petitioner are serious in nature. He submitted that alleged gold jewellery approximately

25.731 kg has been sold and out of the sale proceedings a car Hyundai i-20 bearing no. DL 7CQ 5974 and a flat situated in Madhu Vihar has been purchased by the petitioner and her husband, co-accused Bharat Nathmal Soni. As per the 'Statement of Bank Account' of petitioner, the payment for the flat was made to Ms. Babita Gupta, wife of the builder as well as to the builder Jitendra Kumar Gupta from the account of the petitioner. 'Statement of Bank Account' of petitioner Pooja further reveals that payment for abovesaid Car i.e. i-20 bearing no. DL 7CQ 5974 was also made from her account to Sunrise Autoworld Pvt. Ltd. APP further submitted that recovery is yet to be effected from the petitioner and other co-accused persons. He has, therefore prayed for dismissal of the bail application.

7. I have considered the rival submissions. An FIR No 455/19 dated 06.08.2019 u/s 379 IPC, PS DBG Raod (Spl. Staff) was registered by complainant Abhishek Saraf alleging that he is running a company in the name of HG Jewels, head office at 258/2, New Rohtak Road, Karol Bagh, Delhi.

8. One Bharat Nathmal Soni (husband of the present petitioner) was working as Branch Manager of HG Jewels located at Chandni Chowk. He used to carry Gold jewellery/bullion items from head office, Karol Bagh to branch office in Chandni Chowk. However, he did not deposit back the complete jewellery/Gold metal/cash in the head office. When the matter came into knowledge of the complainant he tried to contact the Bharat Nathmal Soni who had not joined the office since 05.08.2019 and he had left without

disclosing about his whereabouts. Mobile numbers of Bharat Nathmal Soni and his wife Pooja Soni (petitioner) were found switched off.

9. The allegations are that Bharat Nathmal Soni misappropriated approximately 25.731 Kg Gold jewellery of HG Jewels. During the investigation it was revealed that a huge amount i.e more than 27 lacs of cash was transferred to the account of Ms Pooja Soni (the petitioner) from the account of alleged Bharat Nathmal Soni. Further Ms. Pooja Soni transferred the amount in three different Accounts.

10. It is further alleged that the gold jewellery which was approximately 25.731 kg has been sold and out of the sale proceedings a car Hyundai i-20 bearing no. DL 7CQ 5974 and a flat situated in Madhu Vihar has been purchased by the petitioner and her husband, co-accused Bharat Nathmal Soni. As per the statement of account of petitioner, the payment for the flat was made to Ms. Babita Gupta, wife of the builder and to the builder Jitendra Kumar Gupta from the account of the petitioner. Statement of account of petitioner Pooja further reveals that payment for abovesaid Car i.e. Hyundai i-20 bearing no. DL 7CQ 5974 was also made from the account of the petitioner to Sunrise Autoworld Pvt. Ltd.

11. On 25.09.2019, co-accused Bharat Nathmal Soni was arrested and on disclosure and at his instance, cash worth Rs. 1,43,000/- and some gold jewellery (i.e. 70 gms approx.) were recovered. He further disclosed that some of gold jewellery articles are kept with his wife Pooja Soni (petitioner), Sarwan (brother of petitioner) and his other

relatives/known.

12. It is submitted that petitioner is not joining the investigation. A notice U/s 41(1)(a) Cr.P.C. has been affixed on the door of her rental accommodation at Delhi as well as Bheenmal, Distt. Jalaour, Rajsthan but she did not join the investigation yet and is absconding. Consequently, NBWs were issued against her by the concerned Court for 06.02.2020.

13. In view of the above facts appearing on record and nature of offence as well as the fact that huge amount of gold i.e. approximately 25.731 kg has been misappropriated by the husband of the petitioner and a sum of Rs. 27 Lacs was transferred by him in the bank account of petitioner and out of which she has made payment for purchasing i-20 Hyundai Car, which is yet to be recovered as well as payment to the builders for purchasing flat and the petitioner is not joining the investigation, no grounds for anticipatory bail are made out. The anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

JANUARY 29, 2020.

Amit