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

+ **BAIL APPLN. 63/2020**

PAWAN AGGARWAL

..... Petitioner

Through: Mr. Vikas Pahwa, Senior Adv. with
Mr. Kapil Midha, Ms. Ruchika
Wadhawan and Ms. Pritika Juneja,
Advs.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Ripu Daman Bhardwaj, SPP for
CBI with DSP R.K. Sangwan, IO
Ms. Rytim Vohra, Adv. for
complainant

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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13.01.2020

CRL. M.As. 513-14/2020

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

CRL.M. (BAIL) 50/2020

3. The present application is filed under Section 439 Cr.P.C. seeking interim bail in RC No. 5(S)/2019/SCU-V/SC11/CBI/NEW DELHI under Sections 363/120B/360/361/365 IPC.
4. Ms. Rytim Vohra, learned counsel appearing on behalf of the complainant submits that in the matters connected with this case, various

Courts have impleaded the complainant and she has only requested to implead the complainant as respondent No. 2 in the present case.

5. On her oral request, I hereby implead Dr. Kiran Lohia, wife of Aman Lohia, as respondent No. 2 in the present case. The petitioner is directed to file amended memo of parties during the course of the day.

6. With the consent of the counsel appearing on behalf of the parties, the present application is being taken for disposal.

7. It is stated in the present petition that all the family members of Aman Lohia (father of the child) are not in custody. The petitioner is 70 years old and is suffering from various ailments including diabetes and requires regular care.

8. Learned Senior Advocate appearing on behalf of the petitioner submits that Aman Lohia had filed a Special Leave Petition before the Hon'ble Supreme Court being SLP (Criminal) vide Diary No. 45540/2019 challenging the Orders passed by this Court in W.P. 2375/2019. The said SLP was listed on 18.12.2019 and the same was re-notified to 8th January, 2020.

9. The mother and sister of Mr. Aman Lohia, being Mrs. Meena Lohia and Ms. Megha Lohia had also filed a Special Leave Petition before the Hon'ble Supreme Court being SLP (Criminal) vide Diary No. 45831/2019 challenging the Orders passed by this Court in W.P. 2375/2019 wherein vide Order dated 18.12.2019 passed by the Hon'ble Supreme Court, the Court has directed that no coercive action shall be taken against the said Petitioners till the next date of hearing. The said petition was listed on 8th January, 2020.

On the said date, the counsel appearing on behalf of Mr.Aman Lohia made certain suggestions for full and final settlement of the dispute between the parties. In view thereof, the Hon'ble Supreme Court directed the said Petitioner to file an application disclosing the modalities suggested across the bar, besides filing Special Leave Petition against the judgment dated 07.01.2020 passed by this Court in Writ Petition 2375/2019. Further, observed that no further direction shall be issued by this Court in the said matters, as the entire matter is likely to be considered by the Supreme Court.

10. Mr. Ripu Daman Bhardwaj, learned Special Public Prosecutor for CBI submits that the petitioner has filed bail application No. 5/2020, wherein notice had been issued vide order dated 06.01.2020 and listed on 23.01.2020.

11. It is fairly conceded by the learned Special Public Prosecutor that the said petition is filed challenging the order passed by the ACMM, whereby the application under Section 167 (2) Cr.P.C. filed by the petitioner had been dismissed.

12. Learned SPP further submits that the petitioner alongwith Aman Lohia (father of the child) had taken the child via Bagdogara-Kathmandu-Doha-Muscat to Dubai. Thus, the petitioner was party to the conspiracy to take the child from India despite directions having been passed by this Court in the earlier writ petition. Therefore, the present petition deserves to be dismissed.

13. It is not in dispute that the bail application No. 5/2020 is filed by the petitioner challenging the dismissal of the application under Section 167

Cr.P.C. It is also not in dispute that charge-sheet has been filed and the grandmother of the child, namely, Meena Lohia has not been arrested and given interim protection by the Hon'ble Supreme Court, however, she has been made accused in the charge-sheet based upon the similar allegation of conspiracy made against the petitioner herein.

14. As stated by the learned Senior Counsel at Bar that petitioner has business relations with the father of Aman Lohia i.e. grandfather of the child, who was staying in Dubai at the relevant time. For that purpose, he visited Dubai and not otherwise. Thereafter, the grandfather of the child came to India from Dubai, however, he is not made accused in the charge-sheet.

15. It is also not in dispute that there is a matrimonial dispute between Aman Lohia and his wife, due to which Aman Lohia has taken the child out of India i.e. to Dubai.

16. Learned SPP has not disputed the fact that none of the family members of Aman Lohia are in jail, they are either absconding or not made accused in the charge-sheet or under the protection of the Hon'ble Supreme Court.

17. It is also not in dispute that in order dated 08.01.2020, learned counsel appearing on behalf of Aman Lohia made certain suggestions for full and final settlement of all the disputes between the parties. Accordingly, Hon'ble Supreme Court directed the said petitioner to file a formal application disclosing modalities suggested across the Bar, besides filing Special Leave Petition against the order dated 07.01.2020 passed by this Court in the

petitions mentioned above.

18. Further, it is also not in dispute that bail application No.5/2020 is not part of the petition pending before the Hon'ble Supreme Court.

19. I am conscious about the bail application mentioned above filed by the petitioner challenging the order passed by this trial Court whereby the petition under Section 167 Cr.P.C. has been dismissed. I am also conscious about the direction passed by the Hon'ble Supreme Court that this Court shall not pass any order in the entire matter as the matter is seized by the said Court.

20. It is also not in dispute that the present case is registered against the accused persons based upon the directions passed by this Court and none of the family members till date are in judicial custody, whereas, the petitioner who is a family friend and having business relations with the father of Aman Lohia, is in judicial custody since 15.10.2019 except for the period of the interim bail for 11 days on the ground of bereavement in the family of the petitioner.

21. If the matter is settled between the family members of Mr. Aman Lohia, then the FIR may be settled and quashed at the level of Hon'ble Supreme Court, then in that case, why should the petitioner herein be unnecessarily remain in the judicial custody.

22. Accordingly, I hereby grant interim bail to the applicant on furnishing personal bond of Rs.50,000/- with two sureties of like amount to the satisfaction of the trial Court.

23. It is made clear that the bail is granted till the disposal of the petitions

pending before the Hon'ble Supreme Court. I further make it clear that if, at the level of Supreme Court, the matter is not compromised or disposed of as not settled, then petitioner shall surrender within three days from the date of the order passed by the Supreme Court.

24. With the aforesaid observations and directions, the application is disposed of.

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25. In view of the order passed in the interim bail application, no further order is required to be passed in the present petition. Same is accordingly disposed of.

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

27. Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

28. It is made clear that copy of order shall be given only after filing of amended memo of parties.

SURESH KUMAR KAIT, J

JANUARY 13, 2020

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