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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 703/2020 & CRL.M.A. 2894-2895/2020**

MR. SANJAY KUMAR DASS

..... Petitioner

Through: Mr. Vivek Sood, Sr. Advocate with
Mr. Piyush Kaushik & Mr. Nakul
Jain, Advocates.

versus

STATE

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP for
State with SI Madhurendra Kumar,
PS EOW.
Mr. Brajraj Singh, Advocate for
complainants.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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07.02.2020

CRL.M.A. 2895/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 703/2020

Vide the present petition, the petitioner assails the impugned order dated 23.12.2019 of the Trial Court of the learned CMM, New Delhi in relation to FIR No.131/2017, EOW under Sections 420/409/418/120B of the Indian Penal Code, 1860 submitting to the effect that the conditions imposed vide the said order granting bail to the petitioner be removed and that the

order dated 23.12.2019 to the extent that the applicant was granted interim bail be confirmed.

Submissions have been made on behalf of either side.

Vide order dated 23.12.2019, it is indicated to the effect that the applicant was ready to compromise the matter with the complainants/ victims and was ready to pay a sum of Rs.2 Crores and it was submitted on behalf of the applicant that the demand drafts in the sum of Rs.24,46,000/- had been brought by him and that the applicant was ready to deposit the same in Court. Taking the said aspect into account and the factum that the applicant was ready to compromise the matter with the complainants/ victims and ready to pay the entire cheated amount as observed vide the impugned order to the tune of Rs.2 Crores to the complainants/ victims, the applicant was admitted to bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount with the condition that the demand drafts for a sum of Rs.24,46,000/- would be deposited on behalf of the applicant in Court and that the applicant would pay the entire cheated amount of Rs.2 Crores to the complainants/ victims by the date 28.01.2020.

Vide order dated 04.02.2020, it was observed that it is informed on behalf of the applicant that he was unable to arrange the funds and he may be given further opportunity as he sought time to file a petition before this Court for grant of relief. It was also observed vide order dated 04.02.2020 of the learned CMM, New Delhi that it was informed by the Investigating Officer that notices had been issued to the accused to join the investigation and that he was trying to dispose of the properties which had been purchased from the cheated amount. The learned Trial Court has further observed to

the effect that the applicant despite the order dated 23.12.2019 granting bail to him with conditions as imposed of the deposit of the sum of Rs.2 Crores to safeguard the interest of the victims by 28.01.2020 chose not to appear before the learned Trial court as warrants were issued against him from the Court of 5th Special Court, Kolkata for his appearance for the same date, whereby, the applicant was directed to comply with the order dated 23.12.2019 by the date 01.02.2020 and appear before the Trial Court on 01.02.2020 on which date also the applicant failed to put in appearance and his counsel made submission that the applicant was not in a position to appear before the Court being hospitalized and was thus, directed to place on record the flight ticket on the record through which he returned back from Kolkata to Delhi as well as his medical certificates but that the applicant did not appear even on the date 04.02.2020 and no satisfactory reply for his non appearance was given nor was any medical record produced to support his contentions that he had been hospitalized previously nor placed on record any proof to show that he had appeared before a Court at Kolkata on 28.01.2020 and that he returned back to Delhi on 29.01.2020.

It was also observed vide order dated 04.02.2020 to the effect that the liberty granted by the Court had been disobeyed and the applicant having failed to appear on three consecutive dates i.e. 28.01.2020, 01.02.2020 and 04.02.2020 without any reasons and having not cooperated in the investigation of the case, the bail granted to the applicant vide order dated 23.12.2019 was revoked qua the bail bond and surety bond stood cancelled and with NBWs having been directed to be issued against the applicant.

It has been submitted on behalf of the applicant that the said

conditions that had been imposed vide the order dated 23.12.2019 for the grant of bail qua the payment of a sum of Rs.2 Crores, were onerous and that they had been made in the compelling circumstances in order to seek the grant of bail and were certainly not made with free will or consent and that it was only to put forth the bonafides of the applicant that the demand drafts to the extent of Rs.24,46,000/- had been deposited in Court. It has further been submitted on behalf of the applicant that the applicant would make an endeavour to make further payments in the matter but in any event, is unable to comply with the conditions that were imposed vide order dated 23.12.2019.

On behalf of the State, it has been submitted that the directions qua the payment of the sum of Rs.2 Crores were not imposed by the Court and that it was a submission that had been made on behalf of the applicant himself by his learned counsel.

Be that as it may, the proceedings dated 04.02.2020 of the learned Trial Court categorically indicate the continued absence of the applicant without substantiated record before the learned Trial Court and thus in the circumstances, it is apparent that the Trial Court has rightly withdrawn the grant of bail to the applicant vide order dated 23.12.2019.

In the circumstances, the applicant is directed to surrender within a period of three days before the Trial Court of the learned CMM, New Delhi on 10.02.2020.

A submission is sought to be submitted on behalf of the applicant that the records in relation to the reasons for the absence of the applicant are in possession of the petitioner and that the applicant may be permitted to place

the same on the records of the learned Trial Court, which the applicant is permitted to do so before the learned Trial Court. The conditions however, as imposed vide the order dated 23.12.2019 qua the payment of a sum of Rs.2 Crores observe to be the cheated amount, without trial however, are directed to be expunged from the order dated 23.12.2019 which be considered on their own merits.

Nothing stated hereinabove shall however amount to any expression on the merits or demerits of any further bail applications that are filed before the learned Trial Court.

The petition disposed of.

Copy of the order be given Dasti under the signatures of the Court Master.

ANU MALHOTRA, J

FEBRUARY 07, 2020
'neha chopra'