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

+ **CRL.M.C. 1572/2020 & CRL.M.A. 9282/2020**

DEEPAK JOSHI

..... Petitioner

Through: Mr.Deepak Dhingra & Ms.Rachita Garg,
Advocates.

Versus

STATE THROUGH SHO POLICE STATION MEHRAULI AND ANR

.....Respondents

Through: Mr.Ashok Kumar Garg, APP for State
with SI Hukam Chand.
R-2 in person with Mr.Gaurav Sharma,
Advocate for R-2.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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06.08.2020

(hearing through Video Conferencing)

The status report has been submitted by the State.

Submissions have been made on behalf of the petitioner, the State
and the respondent no.2.

The petitioner vide the present petition seeks the modification of
the order dated 24.02.2020 of the learned Trial Court in Bail Appln.
No.2134/2019 in relation to FIR No.173/2019, PS Mehrauli, whereby the
applicant in the instant case was admitted on bail in the event of his arrest
subject to furnishing the personal bond of Rs. One Lakh along with one

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CRL.M.C. 1572/2020

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surety of the like amount to the satisfaction of SHO of the PS concerned with further directions that the applicant was not to leave the National Capital Territory of Delhi without the permission of the Court concerned and was also directed to make himself available as and when the Investigating Officer required his presence. It is further mentioned in the order dated 24.02.2020 that the order in the said case was made considering the facts and circumstances and the nature of the offence.

The petitioner seeks the setting aside the restriction imposed upon him not to leave the National Capital Territory of Delhi without permission of the Court. It has been submitted through the application *inter alia* that the applicant is a qualified MBA and presently in the job of teaching college students and he teaches information technology and that the condition imposed on him is harsh, in as much as, his family comprises of his wife, his daughter who is a spinster and who works in Bangalore and a son who is doing business and that the petitioner himself is an MBA and presently in the job of teaching and thus when his job demands he may have to immediately travel for various purposes including the one which may be personal; that the petitioner also has a residence at Faridabad; that the petitioner has joined the investigation and his statement has been recorded at PS Mehrauli that the matter which relates to an FIR registered under Sections 420/406 of the Indian Penal Code, 1860 is based upon the documents and no recoveries have to be made from the petitioner and that the petitioner has also deposited a sum of Rs.5,00,000/- as detailed in the order dated 24.02.2020.

It has also been submitted on behalf of the petitioner that the petitioner seeks to also visit his daughter for the purpose of her matrimonial alliance and that the petitioner does not know how long it

would take in the conclusion of the proceedings in the instant case and that the petitioner would make himself available to the Investigating Officer as and when required.

On behalf of the State, learned APP has vehemently opposed the prayer made by the petitioner submitting to the effect that there was no opposition raised on behalf of the petitioner at the time when the impugned condition was imposed vide order dated 24.02.2020 of the learned Trial Court and that there is no requirement of any modification of the condition imposed.

In reply to a specific Court query, the Investigating Officer SI Hukam Chand has stated that qua the present petitioner who has joined the investigation, there is no requirement of any further investigation. It is however stated by the Investigating Officer that the co-accused in the instant case who had been granted anticipatory bail, has absconded and is not joining the investigation and that the charge sheet is thus yet to be filed as the investigation qua the co-accused is yet to be completed.

On behalf of the complainant, learned counsel for the complainant has also opposed the prayer made by the petitioner submitting to the effect that just as the co-accused has absconded, there is likelihood of the present petitioner also absconding and that it was taking into account the nature of the offence committed by the petitioner that the condition was imposed vide the impugned order dated 24.02.2020. It is further submitted on behalf of the respondent no.2/ complainant that there is nothing harsh in the petitioner seeking permission from the Court concerned as and when he seeks to leave the city.

A further submission is also made on behalf of the respondent no.2/complainant that the petitioner has not sought any modification of the order dated 24.02.2020 to the extent that it imposes the condition

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from the Trial Court and that the petitioner thus, ought not to have sought redressal in the manner that the petitioner seeks under Section 482 of the Cr.P.C., 1973 qua which it has been submitted on behalf of the petitioner that the learned Trial Court does not have the power to review its own orders which is undoubtedly correct.

On a consideration of the submissions that have been made on behalf of either side, the aspect that the investigation qua the petitioner is complete as submitted by the Investigating Officer in reply to a specific Court query, the factum that the petitioner has joined the investigation also has been fairly stated by the Investigating Officer, subject to the conditions:-

- the applicant shall inform the Investigating Officer at any time that he seeks to leave the city of Delhi;
- the applicant shall also inform as to by which mode he would be leaving the city and the address to which he would be leaving; the period for which he would be leaving
- the applicant shall keep his mobile phone on at all times;
- the applicant shall provide his mobile number to the Investigating Officer as well as of his family members;
- the applicant shall provide the details of the addresses of his residence at Faridabad and shall provide the whereabouts of his daughter living at Bangalore
- the applicant shall drop a pin on the Google map so that his location is available to the Investigating Officer at all times
- subject to further condition that under no circumstances whatsoever, the applicant shall leave the country and intimation in relation to which be sent to the FRRO and all Airport Authorities of the country

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the condition imposed vide the impugned order dated 24.02.2020 to the extent that it has been impugned in relation to Bail Appln. No.2134/2019 directing that the petitioner would not leave the National Capital Territory of Delhi without permission of the Court concerned is set aside with it specifically been directed that the petitioner shall make himself available as and when the Investigating Officer requires his physical presence in Delhi also.

The petition and the accompanying application are disposed of accordingly.

ANU MALHOTRA, J

AUGUST 06, 2020

'neha chopra'