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

+ **BAIL APPLN. 1033/2019**

KAILASH CHAND

..... Petitioner

Through: None.

Versus

STATE

..... Respondent

Through: Mr.Raghuvinder Verma, APP for
State with SI Mantosh Kumar, P.S.
Barakhamba Road, New Delhi.
Mr.Rizwan, Mr.Apoorv Singhal and
Mr.Sameydeen, Advocates for the
complainant.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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13.01.2020

1. There is no appearance on behalf of the petitioner even at the second call despite matter having been passed over.
2. It is noted that vide order dated 25.04.2019, the petitioner was granted interim protection on his volunteering to hand over a fixed deposit receipt (FDR) of Rs.6 lacs in the name of the complainant with the Investigating Officer. The petitioner challenged the aforesaid order by filing SLP in the Supreme Court bearing SLP No.4943/2019 and vide order dated 24.05.2019, the Supreme Court directed the aforesaid amount to be deposited in FDR before the concerned Court. Thereafter, on 25.09.2019, the aforesaid order dated 25.04.2019 was modified and the petitioner was permitted to deposit the aforesaid amount with the Registrar General of this Court. On that date,

it was submitted by the learned APP for the State that the petitioner was not joining the investigation and the notices issued in this regard were unserved.

3. Again on 06.11.2019, learned counsel for the petitioner appeared and submitted that he was appearing on receipt of telephonic instructions from the petitioner but he was not aware of his whereabouts. It was again submitted by the learned APP for the State that the petitioner did not join investigation even once. Accordingly, the petitioner was directed to remain present in Court.

4. On 04.12.2019, the petitioner neither appeared before the Court nor before the Investigating Officer in the meantime. Learned counsel for the petitioner submitted that the petitioner had suffered an accident and also produced a post-dated cheque bearing No.501781 dated 22.12.2019 drawn on State Bank of India in the sum of Rs.5 lacs stated to have been received by the petitioner from one of his clients. It was undertaken that on encashment of the aforesaid cheque, Rs.5 lacs will be deposited, failing which the petitioner would make alternate arrangement to deposit the amount of Rs.5 lacs. It was simultaneously undertaken that the sum of Rs.1 lac will be deposited with the Registrar General of this Court within one week of passing of the order.

5. Today, neither the petitioner nor his counsel is present. As per the office report, the petitioner has failed to deposit any amount with the Registrar General of this Court in terms of the directions given by the Court.

6. Learned APP for the State, on instructions from the Investigating Officer, submits that the petitioner has not even joined the investigation. The Investigating Officer had visited the last known address of the petitioner at Dehradun, where he has come to know that the petitioner is not residing at

the said address after May, 2019. He, on instructions, further submits that the IO has spoken to the landlady of the aforesaid house at Dehradun, who informed that the petitioner has paid rent only for one month and has not resided at the aforesaid address for more than one month i.e., in the month of May, 2019.

7. The petitioner has not only made a deliberate false statement at the time of seeking interim bail but also later misused the concession by not depositing the amount even after multiple opportunities granted to him. Additionally, he has neither appeared before the Investigating Officer even once nor before this Court. Further, the petitioner's address is not verified and his present whereabouts are also not known. The deliberate conduct of the petitioner disentitles him for seeking the discretionary relief of bail. Consequently, the bail application is dismissed.

MANOJ KUMAR OHRI, J

JANUARY 13, 2020

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