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

\+ BAIL APPLN. 1801/2017

ANURAG SINGH ..... Petitioner

Through: Mr. Maninder Singh, Mr. Vivek Kr. Chaudhary, Mr. Kunal Kukreja, Mr. Digamber Singh, Mr. Abhinav Bansal, Ms. Chanchal Sharma and Mr. Mandeep Singh, Advs.

Versus

STATE ..... Respondent

Through: Dr. M.P. Singh, APP for State.
Mr. Fanish Kumar Jain, Adv. for complainant along with complainant in person.

AND

BAIL APPLN. 1803/2017

ROBIN SINGH ..... Petitioner

Through: Mr. Maninder Singh, Mr. Vivek Kr. Chaudhary, Mr. Kunal Kukreja, Mr. Digamber Singh, Mr. Abhinav Bansal, Ms. Chanchal Sharma and Mr. Mandeep Singh, Advs.

versus

STATE ..... Respondent

Through: Dr. M.P. Singh, APP for State.
Mr. Fanish Kumar Jain, Adv. for complainant along with complainant in person.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

O R D E R

% **27.02.2020**

1. The present bail application has been filed seeking bail in FIR No. 119/2020 registered under Sections 420/406/120B IPC.

2. Learned counsel for the petitioners submitted that the entire case of the complainant is based on a costing sheet sent by the petitioners which showed achievable profits of Rs.8,82,000,00/- in a year. He submits that the aforesaid profit was estimated depending on the production capacity mentioned in the costing sheet itself. He submits that the *Bayana* agreement dated 19.04.2016 clearly stipulated that the petitioners would transfer their rights in respect of their shares in 'Secure Beverages Industries Pvt. Ltd.' for a sum of Rs.3.40 crores. He submitted that the time was the essence of the agreement and the complainant did not make the entire payment in time and thus the petitioners rightly forfeited the amount of Rs.88 lacs received by them. He has also submitted that the complainant was appointed as a Director in the accused company w.e.f. 07.06.2016 and referred to the portion of the FIR where it was stated that the accused provisionally permitted the complainant for the trial run of the plant. He submitted that the present complaint is only an afterthought to wriggle out of the agreement without suffering the forfeiture.

3. Learned APP for the State, duly assisted by the learned counsel for the complainant, has vehemently opposed the bail application. It is stated that at the time of entering into the *Bayana* agreement, the petitioners suppressed the material fact that they were not the 100% shareholders. As per the reply received from the ROC in response to the notice under Section 91 Cr.P.C., while the petitioner Anurag Singh had 18,000 shares, Robin Singh had 36,000 shares and the co-accused Indra Singh had 45,500 shares. There were four other shareholders having 45,000 shares amongst them. It

was also stated that the petitioners further suppressed the fact that they had borrowed Rs.30 lacs from one Manish Gupta for promotion of their business and a deed of mortgage dated 07.11.2015 was executed between him and the present petitioners whereby it was agreed that in case of failure of repayment, the petitioners shall hand over the possession of 'Secure Beverages Industries Pvt. Ltd.' It was further stated that as per the Director's Report for the financial year 2015-16, the profit shown (after tax) by the petitioner's company was only Rs.66,77,308.92/-. It was also submitted that the complainant had also filed a civil suit bearing CS(COM.) No.138/2019 pending in the Court of District Judge (Commercial), Rohini.

4. The present case is pending at the stage of investigation and the charge-sheet is yet to be filed. The petitioners had suppressed material facts at the time of entering into the *Bayana* agreement by not disclosing about the other share holders and the factum of loan taken from one Manish Gupta against which a Mortgage Deed regarding property bearing Industrial Plot No.H1, 423, admeasuring 705 Sq.m. situated at Bakai Industrial Area, Alwar Rajasthan, owned by the petitioners' company and M/s Enviro Engineering and Construction Pvt. Ltd. was executed. While the profit of the petitioners' company for the year 2015-16 was only Rs. 66,77,308.92/-, it projected a profit of Rs.3.40 crore in the cost sheet. Looking into the totality of the facts and circumstances of the case, the bail application is dismissed.

MANOJ KUMAR OHRI, J

FEBRUARY 27, 2020

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