

(VIA VIDEO-CONFERENCING)

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

% Reserved on : 23.08.2021
Pronounced on : 30.09.2021

+ BAIL APPLN. 1139/2021

MANISHA DARAL

..... Petitioner

Through: Dr. L.S. Chaudhary, Advocate with
Mr. Ajay Chaudhary and Mr. Vishesh
Kumar, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)

.... Respondent

Through: Dr. MP Singh, APP for the State with
SI Anand Pratap, PS Laxmi Nagar.

Mr. Vijay K. Gupta and Mr. Mehul
Gupta, Advocates for complainant.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

CRL.M.A.11184/2021 (For directions)

1. This is an application filed by the complainant under section 482 Cr.P.C. seeking directions for the release of amount of Rs. 62,00,000/- deposited by the petitioner/accused with the trial court.

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2. It is submitted by the counsel for the complainant that the present bail application has been disposed of vide order dated 14.07.2021, vide which this Court has granted anticipatory bail to the petitioner after the petitioner deposited a sum of Rs. 62,00,000/- in pursuance of order dated 06.05.2021 and 11.06.2021 with the Trial Court in FIR No. 301/2020 registered with P.S. Laxmi Nagar, Delhi. It is further submitted that as the petitioner has deposited a sum of Rs. 62,00,000/- before the Trial Court in FIR No. 301/2020, the said sum of Rs. 62,00,000/- may be released to the complainant i.e. Sh. Vishal Bhutani, subject to the final outcome of the said FIR. It is also submitted that the complainant is ready to offer reasonable security to secure the said amount to the Trial Court, if the orders to the release of Rs. 62,00,000/- are passed. Lastly it is prayed that the amount may be released in the name of complainant on furnishing of reasonable security.

3. Reply to this application has been filed by petitioner.

4. In response to the contents of the application, it is submitted by the counsel for the petitioner that a sum of Rs. 62,00,000/- so deposited by the petitioner with the trial court under the order of this Court, shall not be released to the complainant, as the same has not yet been adjudicated and the amount was deposited without prejudice to the rights and contentions. It is further submitted that complainant has no right to the said amount and the same exclusively belongs to the petitioner. He further submitted that since complainant is not entitled to the amount deposited by the petitioner under the order of this Court hence, there is no question of the same being released

to him, even if he is prepared to furnish any security for the same. It is also submitted that the petitioner with a view to comply with the condition imposed by this Court, has deposited a sum of Rs. 62,00,000/- by arranging the same with a great difficulty and even by taking loans. It is submitted that if ultimately the petitioner is found innocent then she will have to fight another battle to get her money recovered from the complainant.

5. To support his contentions Ld. Counsel for the petitioner relied on following Judgments:

(a) Manoj Kumar Sood & Anr. Vs. State of Jharkhand LL 2021 SC 171.

(b) Shyam Singh Vs. State through CBI (2006) 9 SCC 169.

(c) Dilip Singh Vs. State of Madhya Pradesh & Anr. LL 2021 SC 31.

6. I have heard the Ld. counsel for the petitioner, Ld. APP for the State and Ld. counsel for the complainant.

7. I have perused the judgments “*supra*” relied upon by the Ld. counsel for the petitioner but at the outset the judgments relied upon by him are not applicable to the facts of the present case.

8. In the instant case, the bail application of the petitioner came to be listed on 06.04.2021. Thereafter notice was issued to the respondent (State) and the complainant and the matter was listed for 06.05.2021 for arguments on the bail application of the petitioner but without addressing any argument, the counsel for the petitioner submitted that without prejudice to

the rights and contentions of the petitioner, the petitioner was ready to deposit 50% of Rs. 62,00,000/- which is the amount in dispute within three weeks from the said date and further submitted after seeking instructions from the petitioner that the petitioner would be depositing the balance Rs. 31,00,000/- out of the amount of Rs. 62,00,000/- within another three weeks of the first deposit. When such contentions were made before this Court, the matter was listed for 06.07.2021 and the petitioner was protected till the said date of hearing.

9. On 04.06.2021, the complainant filed an application U/s 482 Cr.P.C. for directions as the petitioner has not complied with the order dated 06.05.2021 and the prayer was made by the complainant that the interim protection granted to the petitioner be withdrawn. It is observed in this order that the petitioner had not approached this Court seeking extension of time, if she was not able to deposit the amount as committed by her before the Court on 06.05.2021 but she was sitting pretty at her home. Therefore, in these circumstances, the interim protection granted to the petitioner was withdrawn.

10. Thereafter, the petitioner herein, approached the Supreme Court against the above said order and the Supreme Court had extended the time for depositing of the amount. In pursuance of the order of the Supreme Court, the petitioner deposited the amount of Rs. 62,00,000/- as per order dated 06.05.2021.

11. Firstly, the petitioner in the instant case has herself volunteered to deposit the amount of Rs. 62,00,000/- on 06.05.2021 and in case the petitioner was aggrieved by such order of deposit which was passed on 06.05.2021 on the basis of her submission, she could have raised this point before the Supreme Court, which she has approached seeking extension of time. It seems it was never argued by the counsel for the petitioner before the Supreme Court that the condition imposed of deposit of Rs. 62,00,000/- may be waived or the petitioner may not be directed to deposit this amount. Rather, the petitioner went running to the Supreme Court seeking extension of time for depositing of the amount of Rs. 62,00,000/- and now it does not lie in the mouth of the petitioner that the condition was onerous or the directions are to be withdrawn.

12. Therefore, in these facts and circumstances, the trial Court is directed to release the amount of Rs. 62,00,000/- to the complainant on his furnishing an indemnity bond to the satisfaction of the Trial Court. The application is disposed of accordingly.

RAJNISH BHATNAGAR, J

SEPTEMBER 30, 2021

Sumant