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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 27th January, 2022Decided on: 7th February, 2022

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BAIL APPLN. 1108/2021**SHRI RAJEEV SURI**

..... Petitioner

Represented by: Mr.Sidharth Aggarwal, Sr.Advocate
with Mr.Rohitt Kr.Yadav, Mr.Ankit
Sibbal, Mr.Udit Arora, Mr.Rishab
Nagar, Mr.Gaurav Sarkar and
Mr.Ankit Rao, Advocates.

versus

STATE OF NCT OF DLEHI

.... Respondent

Represented by: Mr.Ravi Nayak, APP for the State
with SI Sandeep Arya, P.S.Rajouri
Garden.
Mr.Anunaya Mehta, Advocate with
Mr.Vinayak Thakur, Advocate for the
complainant.

CORAM:**HON'BLE MS. JUSTICE MUKTA GUPTA**

1. By this petition, petitioner seeks anticipatory bail in FIR No.1052/2020 under Section 420 IPC registered at PS Rajouri Garden, New Delhi.
2. Learned counsel for the petitioner states that the FIR does not disclose the commission of an offence punishable under Section 420 IPC. Despite the alleged offence having been committed in 2018 and the complainant having issued a legal notice on 5th March, 2019, the FIR was lodged in December,



2020 after a delay of more than 20 months. Complainant is a resident of UK and he entered into a transaction with one Anil, Director of Global Ent. Corporation (in short 'Global Ent.') based in New York, USA and the goods which were funded were allegedly transferred from South Africa to Netherlands however, to create a cause of action in India, it is alleged that the complainant met the petitioner in Delhi at the latter's residence at Rajouri Garden where the complainant was induced to invest. No recourse to civil proceedings for recovery of money has been taken and to twist the arm of the petitioner, the FIR in question has been lodged.

3. Learned counsel for the petitioner further states that the when the complainant issued the legal notice, the alleged main accused i.e. Anil offered to come to India on 10th March, 2019 to sort out the matters however, the complainant vide his email dated 11th March, 2019 stated that he could not come to India. Now during the course of arguments, the complainant without any basis takes the plea that the petitioner impersonated as Anil on the basis of one email which was sent by Anil from Thailand at the time when the petitioner was also at Thailand ignoring that all other emails of Anil were generated from USA when the petitioner was in India. The petitioner is at best a facilitator between the complainant and Anil. Further the best case of the complainant is that the petitioner was a guarantor, even than an offence under Section 420 IPC is not made out. In any case the petitioner has joined the investigation nine times prior to the filing of this petition and eight times after filing of the petition. The petitioner's passport is lying seized with the Investigating Officer and he has always made himself available for the investigation. Further the mobile phone and the laptop of the petitioner have also been seized and thus no



recoveries are required to be made from the petitioner. Hence anticipatory bail be granted to the petitioner.

4. Learned APP for the State submits that the FIR was registered on an online complaint dated 29th December, 2020 received relating to online financial fraud. However, prior thereto the petitioner had given a written complaint on 1st December, 2020 addressed to the Commissioner of Police, the DCP, West and the SHO. Despite the fact that the petitioner has given the mobile phone number and the email address of Anil however, Anil could not be contacted. The whereabouts of Anil are not known and the petitioner is the only person who knows the whereabouts of Anil in case such a person exists as the complainant has never met this Anil. He further states that during the investigation, foreign departure and arrival details of the petitioner were collected from FRRO and his bank statements were also collected from different banks which reveal that the petitioner had money transaction with Global Ent. Though the petitioner claimed that he had forwarded invoices and emails to the complainant which he had received from Anil/Global Ent. however, the petitioner refused to show the original emails and invoices received from Anil/Global Ent. and thus he did not fully cooperate and did not provide any details of the co-accused Anil and the alleged company Global Ent. Further the mobile phone given by the petitioner to the investigating officer is not the one used by the petitioner at the time when the alleged offence was committed. Thus custodial interrogation of the petitioner is necessary to unearth the facts.

5. Learned counsel for the complainant submits that the investigating agency did not register the FIR on the detailed complaint of the complainant which detailed complaint dated 1st December, 2020 has been annexed as



Annexure R-1 to the written submissions. It is stated that on the assurance of the petitioner who induced the complainant, the complainant invested in Global Ent in two transactions that is, HMS-1 & 2 and SS 304. Qua the product HMS-1 & 2, the complainant transferred a total sum of USD 69,000 and qua the product SS-304 the complainant transferred a total sum of USD 1,85,227.50 out of which USD 4,000 were transferred from the complainant's company AG Global, whereas USD 41,600 were transferred from NBNH, Hong Kong and 1,03,627.50 USD from Union King, Hong Kong, which amount was taken on loan by the complainant from his brother-in-law who is in Hong Kong. Further the petitioner is the one who sent the proposal, the petitioner had been sending the invoices and adjusted accounts; the petitioner gave his guarantee as is evident from the transcript of the conversation dated 18th January, 2019 when the complainant was pursuing his money. The petitioner had been sending emails, bills of lading and thus the petitioner cannot claim that he had no interest in the transaction and he was a mere facilitator. The complainant has been in touch only with the petitioner. The surreptitious manner in which the petitioner has conducted himself by luring the complainant to invest, clearly evidences that Anil is a non-existent person and the petitioner himself is doing the business under the garb of an assumed name Anil at USA. It is thus prayed that the petition be dismissed.

6. In the online complaint sent by the complainant on which the FIR was registered it is stated by the complainant that the complainant was a Director of AG Global Trading Limited (in short 'AG Global') having its office at Athlon Road, Wembley, United Kingdom and the petitioner is having his office at 5, Stutee Building, Bank Street, Karol Bagh, Delhi and is a resident



of A-2/87, Rajouri Garden, Delhi. It is alleged that the petitioner in conspiracy with his friend Mr. Anil based in USA, defrauded the complainant for a sum USD 2,18,500/- on two cases during the period from July, 2018 to October, 2018. Complainant knew the petitioner for the last few years due to his presence in metal industry and through his uncles who are based in UK. The complainant met Rajeev Suri in August, 2018 at his residence at Rajouri Garden where he gave few business proposals in relation to scrap metal business and told that he had good contacts in USA. He stated that Global Ent. can supply material to Netherlands and the complainant can make reasonable profits. The petitioner further stated that he does not deal in international trades from his USA and Dubai companies due to taxation complications/evasion in India and thus he convinced the complainant to transfer the money to his USA company and thereby cheated him by neither returning the money nor the assured profit.

7. In the detailed complaint submitted by the complainant on 1st December, 2020, the allegations in nutshell are that the complainant knew the petitioner for past few years due to his presence in the metal industry and through his uncles based in UK and then as business associates while the complainant was associated with M/s Asha Exports Company Limited (in short 'M/s Asha') as its Director/Shareholder. The petitioner represented himself to be the owner alongwith his cousin Anil of M/s Global Ent. Corporation, USA which carried on the business of trading in metals, scrap material and various items. Certain international trading transactions were thus executed between M/s Asha as part of the business relationship in June-July, 2018. The petitioner during his visit to UK met the complainant while the complainant was still associated with M/s Asha and was about to exit the



same and start his own business under the name of AG Global Trading Limited (in short 'AG Global'). The petitioner made a proposal to the complainant to personally invest in trading through M/s Global Ent and sent an email dated 15th July, 2018 containing business proposals. Pursuant thereto the complainant visited India in August, 2018 and during this visit met the petitioner at his residence at Rajouri Garden on 11th August, 2018 and thereafter at his office at Karol Bagh, Vasant Vihar and Gurgaon as well as again at his residence in Rajouri Garden. During the meetings, petitioner represented that he had expertise in international export and import business including in sourcing and procurement of materials and their pricing. He thus offered lucrative business proposals to the complainant to invest in international export and import through M/s Global Ent and that the investment made by the complainant will be a safe investment and would reap good returns. The petitioner gave guarantee in his personal capacity as also on behalf of Anil in relation to the money invested by the complainant. Trusting the petitioner, the complainant invested the money.

8. In the detailed complaint, it is further alleged that in the first instance parties agreed for sale of the product HMS 1 & 2 and as per the agreement the complainant was to pay to M/s Global Ent and the material was to be shipped directly by M/s Global Ent to the complainant's customer who would in turn pay the complainant. The complainant thus invested as noted above. Petitioner promptly got cleared the shipments under HMS 1 & 2 so as to gain trust and confidence. After supplying the product HMS 1 & 2, the petitioner represented that he had the supplier for the material SS 304 which was ready to be dispatched and a buyer based in Netherlands who wanted to purchase the said material however, he did not have funds to invest in the



said deal. The petitioner further represented that the buyer makes 90% of the payment upon providing copy of the bills of lading, that is, at the time of loading of the goods and the balance 10% on delivery. The petitioner also stated that the said payment terms would be available only if the transaction is executed through M/s Gloabl Ent. Hence the complainant agreed to fund the said transaction and it was assured that not only the amount invested but 50% of the profit @ USD50 per metric ton would also be paid to the complainant. On the assurance the petitioner, the complainant invested a total sum of USD 1,85,227.50 in SS 304 after borrowing substantial sum from his brother-in-law. Thereafter though the petitioner continued assuring that he will pay the money, however, no money was received by the complainant, resulting in the complainant issuing a legal notice dated 5th March, 2019 and lodging of the FIR.

9. The complainant further alleged that to conceal the actual transaction, the petitioner neither provided the correct bill of lading which was approved by the claimant and even the weights and port of discharge were incorrect. Further the weight of the material was wrongly mentioned at the port of delivery. Further in the email conversation, petitioner acknowledged the payment made by the complainant and in the voice recording done by the complainant, the petitioner also assured return of his amount which mobile phone has been duly seized by the investigating agency.

10. As per the status report filed by the State, during investigation notices have been sent through Ministry of External Affairs to get the details of Directors banks statements of Global Ent and the reply in this regard is still awaited. Notice has also been sent to Google to get the details of the email IDs and IP addresses of Anil and email globaentcorp@ gmail.com. Pursuant



to notice under Section 41A Cr.P.C. the petitioner has joined the investigation, submitted his bank statement from different bank accounts. The analysis of the bank statements reveal money transactions with Global Ent. During the course of investigation, the complainant provided the documents including the business proposal sent by the petitioner through email dated 15th July, 2018 and whatsapp messages wherein the petitioner is demanding money from the complainant asking him to sent money to USA based account of M/s Global Ent. Copy of the letter to borrow money from bank to repay loan taken by the complainant from his brother-in-law has also been submitted.

11. The main investigation from the overseas is yet to be carried out and the replies would take some time. Main grievance of the investigating agency is that the petitioner forwarded the invoices and emails confirming advances by the complainant which the petitioner claims to have received from Global Ent but the petitioner is not providing the complete trails of such received emails from Global Ent which could facilitate tracing of Anil and Global Ent. IP address of one of the email sent to the complainant from M/s Global Ent was traced to Thailand and from the passport of the petitioner it was evident that the petitioner was in Thailand on the said day i.e. 1st February, 2019.

12. From the acts of the petitioner of first inducing for the transaction to be made through Global Ent, making the complainant invest in the transaction, sending the business proposals as also demanding money including sharing of the invoice, photos of the containers wherein purportedly incorrect place of delivery and weight is mentioned, it is evident that the petitioner was fully involved in the entire transaction and was not a



mere facilitator, who merely introduced the complainant to M/s Global Ent. The petitioner further claims that even taking the case of the complainant at its best, the petitioner is a guarantor. This contention of the petitioner is based on the petitioners own whatsapp message between the petitioner and complainant wherein the petitioner stated “*paisa apaka kahin nahi jaa raha he, ye meri guarantee he....first day se bola tha*”.

13. Despite the fact that the petitioner claims that he has given his mobile phone and laptop, the mobile phone has not been sent to FSL because the mobile phone handed over to the investigating agency was not the one used at the relevant time. The petitioner has since been given a notice under Section 91 Cr.P.C. dated 10th January, 2022 for depositing I-phone 7 which was used by him during the relevant period, however he has failed to produce the same.

14. Considering the fact that the petitioner is an active participant in inducing the complainant to invest as also in the entire transaction and is not coming forthwith by providing the necessary material including the email trails received from Global Ent and mobile phone for the relevant period, this Court finds no ground to grant anticipatory bail to the petitioner.

15. Petition is dismissed.

16. Order be uploaded on the website of the Court.

(MUKTA GUPTA)
JUDGE

FEBRUARY 07, 2022

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