* IN THE HIGH COURT OF DELHI AT NEW DELHI

% **Pronounced on: 18th May, 2022**

\+ **CRL.M.C. 1769/2020**

SANDEEP SINGH ..... **Petitioner**

Through: Mr. Mudit Jain, Mr. Hardik Sharma, Advocates alongwith petitioner in person.

Versus

SIMRAN SODHI & ORS. ..... **Respondents**

Through: Mr. Vikas Arora, Ms. Radhika Arora, Mr. Vishal Choudhary, Mr. Piyush Kumar & Mr. Siddharth Singh, Advocates.
Mr. Vikas Arora, Advocate for complainant.

CORAM:
HON'BLE MS. JUSTICE ASHA MENON

JUDGMENT

1. The petition has been filed by the complainant in FIR No.170/2019 which was registered under Sections 380/406/420/506/120B IPC at Police Station Vasant Kunj, Delhi. Subsequently, Sections 467/468/471 IPC have also been added.

2. The grievance of the complainant/petitioner, leading to the filing of the instant petition under Section 482 Cr.P.C., is granting of an anticipatory bail, vide order dated 13th March, 2020, by the learned Additional Sessions Judge, Patiala House Courts, New Delhi, to the respondents/accused.

3. It may be mentioned here that the case was registered on the allegations that the accused/respondents had entered into a criminal conspiracy to cheat the petitioner/complainant of valuable property. It is the case of the petitioner/complainant that he and the respondent No.1/accused No.1 were college friends and had entered into a registered Partnership Deed dated 10th April, 2014 for manufacturing remote controls under the name and style of M/s S.S. Manufacturing. Both partners had invested money in the firm. Subsequently, in December, 2015, the petitioner/complainant and his father had even mortgaged their house for procuring a loan for the benefit of the partnership firm. However, in January, 2019, the petitioner/complainant claims to have realized that the respondent No.1/accused No.1 had sold off remotes worth Rs.6 lakhs without any invoices and had used the said money, actually belonging to the firm, for his personal use. It was also alleged by the petitioner/complainant that the respondents/accused persons were running another company by the name of M/s Rugs Enterprises Pvt. Ltd. diverting the business and funds of the partnership firm to that company, using the raw material and machinery of the partnership firm and disposing of the remotes to other accused persons.

4. The grounds taken in the petition to challenge the grant of anticipatory bail may be briefly stated to be the following: (i) a non-application of the judicial mind, (ii) the non-appreciation of the serious nature of the allegations made against the respondents/accused by the petitioner/complainant of diversion of funds, (iii) the misappropriation of funds and property, forgery etc, (iv) the fact that the respondents were fraudulently running a parallel company and also diverting business, (v) the fabrication of the Rent

Agreement and other documents to obtain GST registration illegally, and (vi) the threatening of the petitioner/complainant and that the respondent No.4 had a previous criminal history; and (vii) custodial interrogation was paramount and (viii) there was sufficient material on record to suggest that the respondents/accused would tamper with the evidence.

5. Status Report has been filed by the Investigating Officer setting out that the respondent No.1/accused No.1 was not cooperative during investigations as he has threatened the Chartered Accountant. Custodial interrogation was also required for recovery of misappropriated goods, material and machinery, original copy of the forged documents/Rent Agreement, confrontation of the respondents/accused with the witnesses and for recovery of testing equipments, computers and software essential for manufacturing of remotes and to unearth the role of everyone involved in this conspiracy.

6. In the reply filed by the respondents No.1 to 4 against cancellation of their bail, it is submitted that the petition had been filed in order to extort money from the respondents No.1 to 4. It is submitted that investigations have been completed and even as per the petitioner/complainant and the Investigating Officer, several times the respondents were asked to and have joined the investigations. The respondent/State has not challenged the order of granting bail to respondents No.1 to 4 at any point of time. Therefore, to take a stand that custodial interrogation was required was *mala fide*. It was further submitted that M/s Rugs Enterprises Pvt. Ltd. is not a shell company, even as per the investigation carried out. Thus, civil disputes between the petitioner/complainant and the respondent No.1/accused cannot be converted into a criminal case, roping in all the respondents, particularly, the

respondents No.2, 3 & 4, merely because they were Directors of M/s Rugs Enterprises Pvt. Ltd.

7. It is further submitted by Mr. Vikas Arora, learned counsel for the respondents that the entire petition is silent as to the misuse of the liberty granted. Therefore, there was no justification for cancellation of bail. Reliance has been placed on the judgment dated 10th March, 2022 of this Court in Bail. Appln. No.720/2022 titled ***Mukhter Ahamed Vs. State of NCT of Delhi*** and on the judgment of the Supreme Court in ***Hazari Lal Das Vs. State of West Bengal and Anr.*** (2009) 10 SCC 652. It is, therefore, submitted that the petition ought to be dismissed.

8. As has been held by the Supreme Court in ***Hazari Lal Das*** (supra), following the judgment of the Supreme Court in ***Dolat Ram Vs. State of Haryana*** (1995) 1 SCC 349, once bail is granted, very cogent and overwhelming circumstances are necessary for an order directing its cancellation. The one seeking cancellation of the bail must show an interference by the accused or attempt to so interfere, with the due course of administration of justice or an evasion or attempt to evade the due course of justice or an abuse of the concession granted to the accused in any manner. It is clear, in the present case, the petitioner/complainant has not been able to establish any of these factors, even on a *prima facie* view of the matter. There is no material placed on the record to show that the respondents/accused persons are a flight risk. No supervening circumstances have been brought to the notice that would establish that it would be no longer conducive to a fair trial to allow the accused to retain their freedom.

9. Though the arguments were advanced on behalf of the respondents to the effect that no offence was made out, but it is not considered apposite to discuss that aspect in the present petition, as those considerations would be more relevant, while determining the question as to what charge is to be framed against the respondents/accused. For the present, the question is whether, grounds exist for cancelling the bail already granted to the respondents/accused.

10. There is no merit found in the present petition and the same is dismissed.

11. The judgment be uploaded on the website forthwith.

(ASHA MENON)
JUDGE

MAY 18, 2022
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