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

+ **BAIL APPLN. 158/2023**

PRAHLAD KAPOOR Petitioner

Through: Mr.Lakshay Joshi, Adv.

versus

STATE Respondent

Through: Mr.Prithu Garg, APP for State with SI
Avanish Kumar, PS Jagatpuri.

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Date of Decision: 27.03.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present bail application has been filed under Section 439 read with Section 482Cr.P.C. for grant of regular bail in case FIR No. 149/2022 dated 06.02.2022 registered at Police Station Jagat Puri under Sections 489A/489B/489C/34 IPC.

2. The FIR was registered on the complaint of ASI Anoop Kumar. In the complaint, it was alleged that on 06.02.2022 at 2.20 AM, he was informed by the secret informer that one boy namely Rahul standing near Prem sweets at South Anarkali is in the business of using fake Currency notes. During the search, a fake note of Rs. 500/- bearing the 4UV740574, one note of Rs. 200/- only single side printed numbered 6CL839246 and one note of Rs. 100/- numbered 6EM498296 were recovered from his possession. Currency notes were seized at the instance of Rahul and a raid was conducted at the house of the present petitioner and he was found in possession of 2 currency

notes of Rs. 100/- numbered 5EM498296, and 2 notes of Rs. 100/- numbered 6EM498296, 2 notes of Rs 200/- which is single side printed numbered 6CL839246 and one actual currency note of Rs. 1000/- bearing number 3BU544232. At the instance of the petitioner, one HP INK TANK 319 printer and 5 glass bottles of colour, one colour plastic tape and 41 half-printed notes of Rs 100 with the number 6EM498296, were also recovered as well as two tapes of green colour.

3. Learned counsel for the petitioner submits that the co-accused has already been admitted to bail and the present petitioner is in custody since 06.02.2022. Learned counsel submits that the basic ingredient of counterfeiting as provided in Section 28 of IPC is that such counterfeiting must be done to practice deception. Learned counsel submits that there is no allegation of deception against the petitioner.

4. Learned counsel has also invited the attention of this Court to the provisions of Sections 489A of the IPC and has submitted that as per the case of the prosecution, half-printed notes were recovered from the petitioner and therefore, it cannot be said that the petitioner was counterfeiting the currency notes. Similarly, learned counsel submits that Section 489B is not attracted to the present facts and circumstances as there were no allegations that the petitioner was using the counterfeiting notes as genuine. Learned counsel submits that therefore, in view of the above the petitioner may be admitted to bail.

5. Learned APP for State has opposed the bail application on the ground that initially co-accused Rahul was arrested on the basis of the secret informer and he had disclosed that he along with the present petitioner used

to print the fake currencies and would use the same fake currencies at different places. Learned counsel submits that at the instance of Rahul, the following items were recovered from the accused-

1. 01 note of Rs 500 bearing number 4UV740574;
2. 01 note of Rs 200/- printed sided bearing no. 6CL839246 and
3. 01 notes of Rs 100 bearing number 6EM498296

6. He submits that on search following items were recovered from the present accused:

1. 02 notes of Rs. 100 bearing No. 5EM498296;
2. 2 notes of Rs. 100 bearing No. 6EM498296;
3. 2 notes of Rs.200 one side printed bearing number 6CL839246 and one note of 1000 with number 3BU544232
4. One Printer HP Ink Tanke 319;
5. Five glass bottles of colour;
6. one colour plastic tape;
7. 41 half-printed notes of Rs. 100 with number 6EM498296
8. Two tapes of green colour

7. Learned APP submits that anybody who is in the process of counterfeiting falls within the definition of 489A. He also submits that even if the notes were printed only on one side, the petitioner is liable to be prosecuted for the offence under Section 489A. Similarly, learned APP submits that co-accused Rahul was found in the market and, therefore, it cannot be said that he was not using the counterfeit currency notes.

8. Learned APP fairly submits that after the recovery only the notes were sent to FSL and the other articles received, were not sent to FSL.

Learned APP submits that an intimation was also sent to NIA in this regard, but no response has been received from the NIA.

9. First of all, possession of fake currency notes would not mean that it would come only into the definition of 489B if the person alleged is actually found using it for buying something or passing the counterfeit currency notes.

10. However, this court is not going into the said aspect since this is the stage of the bail and meticulous appreciation of evidence is not permissible at this stage. This court is only required to see the *prima facie*, case against the accused.

11. It is an admitted fact that the majority of notes recovered from the present petitioner were one-sided and the investigation officer has not sent other recovered items except notes to the FSL for examination. The petitioner is in custody since 06.02.2022 and the co-accused had been admitted on bail.

12. On prima facie facts, the petitioner is admitted to bail on furnishing a personal bond of Rs.20,000/- with one surety of the like amount to the satisfaction of the learned Trial Court with the following terms and conditions:

- a) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- b) the petitioner shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times;

- c) in case of a change of residential address and/or mobile number, the appellant shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

The present petition stands disposed of in above terms.

DINESH KUMAR SHARMA, J

MARCH 27, 2023

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