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

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***Reserved on: 21.02.2023***  
***Pronounced on: 05.04.2023***

+ **BAIL APPLN. 491/2023**

**MUKESH SONI**

.....Petitioner

Through: Mr. Sunil Kumar Mittal, Mr.  
Anshul Mittal and Mr. Shaurya  
Dahiya, Advocates

versus

**THE STATE**

.....Respondent

Through: Mr. Manoj Pant, APP for State  
with Inspector Neeraj Kumar,  
P.S. Kotwali, Delhi  
Mr. Prateek Som, Ms. Arani  
Mukherjee and Mr. Aditya  
Shukla, Advocates for  
complainant

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J.**

1. The present bail application under Section 438 of the Code of Criminal Procedure, 1973 ('C.r.P.C') has been filed on the behalf of the applicant seeking anticipatory bail in FIR bearing no. 0939/2022, registered at Police Station Kotwali, Delhi for the offences punishable under Sections 406/420/506/120B of Indian Penal Code, 1860 ('IPC').

2. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of State.
3. Brief facts of the present are that on 23.11.2022, the present FIR was registered on the complaint of complainant, wherein she alleged that three accused persons namely Manoj Soni, Rakesh Soni and Mukesh Soni (applicant) fraudulently cheated the complainant for Rs. 2.27 Crores. The accused persons apprised her that they are involved in gold business in which they import gold 3-4 times a month, from which they manage to save around 10% profit on each transaction. They allured the complainant that they would give her around 20% above on the prevailing market rate of gold. They offered to make jewellery for her at half the labour rate than market rate and further promised to deliver the jewellery within 4/5 months. Thereafter, the accused persons demanded Rs. 50 lakhs in advance from the complainant and the complainant paid Rs. 20 lakhs through cheque dated 22.11.2021 into Manoj Soni's account, Rs. 15 lakhs through cheque dated 22.11.2021 into Mukesh Soni's account and Rs. 15 lakhs through cheque dated 22.11.2021 into Rakesh Soni's account. It is also alleged that the accused persons allured her to buy silver utensils for her daughter's marriage and God idols of silver for her house. The complainant placed an order and paid Rs. 30 lakhs in cash and Rs. 30 lakhs by RTGS, from her bank account on the commitment of Manoj Soni to deliver the order within a period of 15 days. Thereafter, the complainant was in need of cash due to her daughter's wedding, so she went to sell her jewellery at "Durga Jewellers" to the accused persons, weighing 2700 gm, worth Rs. 1,17,00,000/- as per market value. In lieu of the same, Manoj Soni

handed over 5 cheques of total value of Rs. 1,10,00,000/- and informed her that the remaining balance amount of Rs 7,00,000/- would be paid in cash within a period of 2 weeks. The complainant alleged that the cheques were dishonoured by the bank due to 'insufficient funds'. Next day, the complainant visited "Durga Jewellers" along with Sanjeev Soni (brother of the complainant), and accused Manoj Soni promised that within 2-3 days, he would deposit sufficient amount in her bank account. The complainant doubted his intension and asked to cancel all the previous orders for gold jewellery of Rs. 50,00,000/-, silver utensils and God idols of Rs. 60,00,000/- and asked Manoj Soni to return her money, who then promised to return the money within one week. After one week, when Manoj Soni was contacted, he sought two more days to repay the money. After 2 days, the complainant, along with Sanjeev Soni went to collect her belongings, and to their surprise, shop was found closed. The complainant was also made aware that Manoj Soni had cheated many persons of crores of rupees. After few days, the complainant again visited their shop and met Manoj Soni there, who told her that he had no money, jewellery or any orders. It also alleged that Manoj Soni abused her and threatened her to not visit his shop again. Thereafter, the complainant had got registered the present FIR.

4. Learned counsel for the complainant argued that the present case is a clear-cut case of cheating and that the applicant and other co-accused persons are habitual offenders. During the course of arguments, learned counsel for complainant also filed on record copy of FIR no. 101/2022 dated 06.05.2022 for offence punishable under Section 420/409/384/120B IPC of police station Mabak Chowk, District Jaipur,

Rajasthan which had been registered against Manoj Soni, Rakesh Soni and some other persons. The said FIR had been quashed by the High Court of Rajasthan, Jaipur Bench on the basis of compromise.

5. During the course of arguments, the Investigating Officer had stated that another complaint has been received/filed by one Sh. Chander Bhan Pratap against the same accused persons which shows that they are habitual offenders.

6. Learned APP for the State submits that allegations against the present applicant are serious in nature. It is stated that the applicant Mukesh Soni did not join investigation despite service of four notices under Section 41A Cr.P.C. On instructions from the IO, it is also stated by learned APP that the accused persons though had joined the investigation after directions of the Court, they did not cooperate with the investigation and kept on changing their stand. It is stated that learned counsel for applicant had withdrawn the anticipatory bail application before this Court on 02.02.2023 and there is no fresh ground for grant of bail. It is also stated that proceedings under Section 82 Cr.P.C. have already been initiated against the applicant.

7. Learned counsel for the applicant/accused, on the other hand, stated that the FIR filed at Rajasthan High Court has nothing to do with the present case and the said case has already been compromised, therefore, it cannot be a ground for rejection of bail. It is also stated that the complaint received by the police against the present accused/applicant is also false and fabricated and also cannot be a ground for rejection of the present bail application. It is also stated that

it is a dispute of civil nature which has been given colour of criminal case.

8. After hearing arguments and having gone through the case file, this Court is of the view that the statement of the complainant in this case is specific as to how she has been induced into payment of large amount of money to the applicant on the ground of investment for high returns. The record also makes it clear that the amount so mentioned by the complainant had been paid not only in cash but also through bank transactions and some part was paid in the form of jewellery. The stand of the applicant, as per the investigating officer during investigation kept changing and even during arguments before this Court, there was no clear argument, as thought it was stated that it was a loan amount, there was no indication of any acceptance of jewellery handed over to the applicant. There was also no indication regarding any intention to return the money. The complainant has clearly mentioned that she had received the amount after death of her husband and since she needed money for her own self and also for the purpose of marriage of her daughter, she has been duped easily by them. Her brother Sanjeev Soni had introduced her to the accused/applicants who were known to him. The transcripts of conversations on record also clearly indicate that consistently and continuously, requests have been made by him also for return of money and the accused persons can be heard telling him that the money will be returned and promising them again and again to pay it back.

9. The contention raised on behalf of applicant that the complainant and her brother are arm twisting the accused persons and had threatened

them with their contacts with various authorities is of no help to them since the issue before this Court is as to whether the money has been paid by the complainant on false pretext and she has been cheated, and whether jewellery worth more than Rs. 1 crore was handed over to accused persons which was never returned and no money was paid in lieu thereof. The issuance of cheques is also not disputed by the applicant. It is also clear from the record that proceedings under Section 82 Cr.P.C. have been initiated against the present applicant/accused as he did not join investigation and when once he had joined the investigation, he did not co-operate with the investigating agency.

10. A perusal of another FIR lodged with Police Station Manak Chowk, Jaipur, Rajasthan against the same accused persons also indicates that the accused persons are habitual offenders and have cheated another complainant. Though, it is stated that the subject matter of the FIR which was compromised and was quashed by the High Court of Rajasthan did not have mention of involvement of present applicant as accused, the same can be of no help to the applicant since co-accused Manoj Soni and Rakesh Soni who are the brothers of the present applicant and are also accused in the present case were accused in the said case and similar allegations of cheating had been levelled against them. The accused persons did not dispute that they have a shop in question where the complainant had met them. It is the case of the complainant that she had handed over the jewellery to them and some amount in cash to them after meeting them at the said shop. Therefore, it is clear that they are doing their business and all the transactions are also conducted by them from their shop in question.

11. Considering the overall facts and circumstances of the case, the conduct of the applicant/accused, the fact that there are specific allegations against the present applicant and learned Trial Court had dealt in detail with all the contentions which he had raised before this Court, and having gone through the contents of FIR as well as the Status Report, no ground is made out for grant of anticipatory bail to the present applicant/applicant, as his custodial interrogation will be required to unearth conspiracy, money trail and recovery of jewellery.

12. In view of the above, the application stands dismissed.

13. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**APRIL 05, 2023/zp**

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