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

\+ BAIL APPLN. 1799/2023

MOHAMMAED TASKEEN ..... Petitioner

Through: Mr.Mayank Goel, Mr.Chander Kant Tyagi and Ms.Manav Gupta, advocates

versus

STATE (GOVT. OF NCT OF DELHI) ..... Respondent

Through: Mr.Hemant Mehla, APP for the state with Mr.Dipanshu Meena, Advocate SI Kuldeep Yadav, PS Chanakya Puri, Distt.New Delhi

% *Date of Decision: 21.07.2023.*

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

JUDGMENT

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been moved for anticipatory bail in case FIR no.63/2023 dated 17.03.2023 registered under Section 420/468/471/120B at PS Chanakyapuri.

2. Briefly stated the facts of the case are that the petitioner is running one partnership firm M/s Sahara World Management and is also a director in SWMS Services Pvt. Ltd. The petitioner is stated to be in the business of providing international visa service. It has been alleged that the present case was registered on the complaint of Mr.Cory, M.

Thomas, Assistant Regional Security Officer-Investigator, US Embassy, New Delhi. It has been alleged that two individuals identified as Mohammed Khaja Mazharuddin and Santhosh Kumar Bandi applied for non-immigrant business visa at the U.S. Embassy in New Delhi. In their visa application forms, they claimed to have been working as a Software Architect with Sahara World Management Services, located at H.N. 8-2-618/2/A/3, 1st Floor, Banjara Hills, Road No. 11, Hyderabad, Telangana and in support of their claims, they submitted employment documents such as appointment letters, pay slips, letters addressed to the US Consulate, Hyderabad requesting permission for them to travel to the United States for a business trip on Sahara World Management Service letterhead. However, during the interview, it was found that they did not work at Sahara World Management Services in any manner and the documents were given against consideration to them by the present petitioner. It was disclosed that Mohammed Abdul Majeed and Chandra Shekhar were also part of the same conspiracy. Therefore, the present case was registered.

3. During the investigation, Mohd. Khaja Mazharuddin and Santhosh Kumar Bandi made the disclosure statement. It came in the investigation that these two accused persons contacted the present petitioner who was working as an agent and had an office in the name of Sahara World Management Services at Banjara Hills. The petitioner allegedly assured them for a US visa and demanded Rs.2 lakhs for each, which was agreed upon by the accused persons and a sum of Rs.1.5 lakh was paid by Mohd. Khaja Mazharuddin to the petitioner

and a sum of Rs.2 lakhs has been paid by Santhosh Kumar Bandi to the petitioner. Allegedly the petitioner Mohammed Taskeen prepared the documents produced before the US Embassy for the purpose of the visa. These documents are allegedly false documents. The investigation revealed that the arrested accused persons were in touch with the petitioner and another accused person namely Mohammed Abdul Majeed and Chandra Shekhar. The investigation also disclosed that the forged documents were sent on the WhatsApp of the arrested accused person. The raids were conducted at the office of the petitioner but it was found to be locked. During the investigation, Mohammed Abdul Majeed was arrested. The accused was not even available at his residence. The notice under Section 41-A Cr.P.C. was served upon his wife Mrs Nazia but the petitioner failed to join the investigation.

4. Learned APP submits that investigation also revealed that the present petitioner had sent total of 22 persons to the US Embassy for getting visa showing them the employees of Sahara World Management Services and most of the applicants mentioned the mobile number of the present petitioner i.e. 9951617786. Learned APP submits that from the bank statements and WhatsApp chats on being analyzed, it is found that the present petitioner is the mastermind of the case. Learned APP submits that present petitioner is also involved in two other cases i.e. FIR no. 552/2019 under Section 406/420 IPC, PS Panjagutta, Hyderabad and FIR No. 569/2023 under Section 406/420 IPC, PS Banjara Hills, Hyderabad, Telangana State. Learned counsel for the

petitioner submits that the other accused persons have already been granted bail. It has further been submitted that the computer has also been recovered from which allegedly the documents presented before the US Embassy were prepared. Learned counsel for the petitioner has submitted that Abdul Majid from whom laptop was recovered has also been admitted to bail.

5. Learned counsel for the petitioner submitted that the co-accused has already been admitted to bail and petitioner is ready to join the investigation. It has further been submitted that any stringent condition may be imposed and the petitioner may be admitted to anticipatory bail.

6. Learned APP has strongly opposed the bail application and has submitted that the petitioner is the mastermind and he has received the money from the co-accused for preparing the forged documents. It has been submitted that the custodial interrogation of the petitioner is necessary. It has also been submitted that the process under Section 82 Cr.P.C. has been issued against the petitioner. Learned APP has also submitted that the NBWs have been issued against him by the trial court in case FIR no.552/2019 under Section 406/420 IPC. Learned APP has submitted that the earlier bail application of the petitioner has also been dismissed.

7. It is a settled position of law that the basic rule of criminal jurisprudence is bail not jail. The Supreme Court and this Court in a number of cases have propounded that the courts must enforce this principle in practice. It is also settled law that denial of bail amounts to deprivations of personal liberty. However, what must be borne in mind

is that power under section 438 of CrPC is an exceptional power and should be exercised only in exceptional cases and not in general cases. The consideration governing exercise of discretion for granting anticipatory bail are materially different from those of an application for bail. The parameters for grant of anticipatory bail are very well settled. It is an exceptional power which has to be exercised by the Court only in the cases where there is a possibility of misuse or abuse of process of the Court. Anticipatory bail is not to be granted as a matter of rule and should be granted only when a special case is made out and the Court is convinced that the person would not misuse his liberty. Thus, the power of anticipatory bail being of extraordinary nature should be exercised only in exceptional cases.

8. The hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre vs. State of Maharashtra***, (2011) 1 SCC 694 has enumerated the following factors and parameters to be considered while dealing with anticipatory bail:

   a. Nature & gravity of accusation and the exact role of the accused must be properly comprehended before the arrest is made
   b. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence
   c. The possibility of the applicant to flee from justice
   d. The possibility of the accused's likelihood to repeat similar or other offences

e. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him/ her

f. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a large number of people

g. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case.

h. While considering the prayer for grant of anticipatory bail a balance has to be struck between two facts, namely, no prejudice should be caused to the free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused.

i. The court is to consider reasonable apprehension of tampering of witness or apprehension of threat to the complainant.

j. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal cause of events, the accused is entitled to an order of bail.

9. In the present case the role of the present accused is quite apparent. The co-accused persons appeared in the US Embassy for a visa with allegedly forged documents. The investigation so far has revealed that the petitioner had been the brain behind the entire scheme.

10. It is also pertinent to mention here that process under Section 82 Cr.P.C. has also been issued against the petitioner and despite that, he has failed to join the investigation.

11. In view of the above facts and circumstances, I consider that the present case is not fit for the grant of anticipatory bail. Hence, the petition is dismissed.

DINESH KUMAR SHARMA, J

JULY 21, 2023
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