

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

% *Date of decision : 20.03.2023*

+ **BAIL APPLN. 3719/2022**

VISHAL KHANDELWAL Petitioner

Through: Mr. Pratap Sahani and Mr.
Pulkit Agarwal, Advocates.

versus

STATE GNCT OF DELHI Respondent

Through: Ms. Priyanka Dalal, APP for
the State with SI Suresh Chand,
DIU South East Distt.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

1. This is a petition filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 229/2017 under Sections 420/406/34 IPC, registered at Police Station Badarpur, Delhi.

2. In brief, the facts of the case are that complainant Ram Shankar Mishra alleged that he was running a Medical Store at Shop No. 8A, Tajpur Pahari, opposite NTPC Gate No.2 Jaitpur, Badarpur, New Delhi. It is further alleged that in the month of October, 2016, he came in touch with Ms. Gloria Alex through Facebook and through chatting they introduced each other. It is further alleged that Ms. Gloria Alex induced that she will provide the Anti Cancer Ayurveda

Seeds to him at the cheapest rate, and she also gave proposal to him that she will take share of 30% in the profit of the same prior to the communication of Dr. Sonita Sharma and provided her Mobile number, Facebook and Email ID. Dr. Sonita Sharma told him that she was running a company on her name i.e., M/s Sonita Sharma Enterprises at Bombay. Dr. Sonita Sharma made a deal of Anti-Cancer Ayurveda Seeds with him. He ordered 100 packets of Anti-Cancer Ayurveda Seeds to Dr. Sonita Sharma but she denied delivering the same without payment. He made payment of Rs.36,00,000/- approx. through NEFT and RTGS in many accounts of the accused persons which provided by Dr. Sonita Sharma but she did not deliver the Anti-Cancer Ayurveda Seeds to him at the given time i.e., 31.01.2017. On enquiry, it was revealed that accused persons conspired and were running an organized Racket of cheating and forgery. Thereafter, on 14.06.2017, FIR no. 229/2017 under sections 420/406/34 IPC was registered and investigation was taken up.

3. It is submitted by the counsel for the petitioner that petitioner has been falsely implicated in this case. He further submitted that petitioner has not been named in the FIR and has no dealings of any kind with the complainant.

4. On the other hand, learned APP has argued on the lines of the status report, and submitted that petitioner is in judicial custody in similar case in FIR No.12/2022 under Sections 419/420/467/468/471/34/120B IPC registered at Police Station Cyber Crime, Distt. CID Cuttack. She further submitted that petitioner is the conspirator with other co-accused, namely, Ms. Gloria Alex and

cheated Dr. Sonita Sharma to the tune of Rs.36 lacs, out of which, Rs.1.75 lacs came in the account of the present petitioner. She further submitted that petitioner conspired with co-accused Ms. Gloria Alex. She further submitted that in the status report, it has been stated by the IO that the complainant transferred Rs.1.75 lacs out of the cheated amount through NEFT in the bank account No. 150205500412 of ICICI Bank, Baripada (OD).

5. Learned APP has relied upon the judgment of the Allahabad High Court in the case of ***Rajesh Kumar Sharma Vs. C.B.I. (Crl. Misc. Anticipatory Bail Application U/S 438 CR.P.C. No. 4633/2022)*** to contend that since petitioner is in judicial custody in some other case, his anticipatory bail in another case cannot be allowed. She further submitted that even production warrants have been obtained from the trial court for 21.4.2023 to arrest the petitioner and to know trail of money and *modus operendi*.

6. In the instant case, since petitioner is in judicial custody in another case in FIR No.12/2022, under Sections 419/420/467/468/471/34/120B IPC registered at Police Station Cyber Crime, Distt. CID Cuttack, and keeping in view the fact that the petitioner has propensity to commit crime, without commenting on the merits of this case, no ground for anticipatory bail is made out at this stage. The application is accordingly dismissed.

RAJNISH BHATNAGAR, J

MARCH 20, 2023/ib