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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 75/2023, CRL.M.A. 6760/2023, CRL.M.(BAIL)
28/2023
M. RADHAPetitioner

Through: Mr. Deepak Prakash, Mr. Nachiketa,
Mr. Vishnu Priya, Mr. Rahul Suresh
and Mr. Vardhan Kapoor, Advocates.
Mr. S.K. Rai, Advocate.

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: Mr. Utkarsh, APP for the State.
Mr. R. Krishnaamorthi, Advocate for
the complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

16.08.2024

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks regular bail in case FIR No.429/2022 dated 25.11.2022 registered under sections 406/420/120-B/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Saket, New Delhi.

2. *Vide* order dated 17.03.2023, the petitioner was admitted to interim bail by the Predecessor Bench of this court upon certain conditions, of which the following conditions are relevant for purposes of the present proceedings :

“vi. The applicant is directed to keep her mobile phone on at all time, dropping a pin on the Google map to ensure that her location is available to the Investigating officer.

“vii. The applicant is directed appear before the concerned police station on every Tuesday and Friday at 02:00 PM and the



Investigating Officer/concerned Officer is directed to complete the formalities within 10 minutes.”

3. Further to what was recorded in last order dated 06.08.2024, Mr. S.K. Rai, Advocate seeks discharge as counsel for the petitioner, submitting that the petitioner would now be represented by Mr. Deepak Prakash, Advocate, who is present in court today. A fresh *vakalatnama* has been filed by the latter; but the same is lying under office objections. Let office objections be cleared before the next date.
4. The petitioner has been produced from custody. She also confirms that Mr. Deepak Prakash, Advocate will be representing her in the matter.
5. The complainant is represented by Mr. R. Krishnaamorthi, learned counsel; who has also placed on record certain documents in support of his contention that the petitioner should not be admitted to regular bail.
6. Status Reports dated 27.02.2023, 14.03.2023, 17.03.2023, and 29.11.2023 have been filed by the State.
7. Referring to status report dated 29.11.2023, Mr. Utkarsh, learned APP appearing for the State has made grievance that the petitioner is not abiding by the conditions on which she was granted interim bail as set-out above, namely that she is neither dropping a pin on Google Maps nor has she been reporting to the Investigating Officer on every Tuesday and Friday, as directed by this court.
8. Learned APP also informs the court that though the petitioner was granted interim bail by this court by way of the aforesaid order, the



petitioner is back in judicial custody in another FIR bearing No.543/2022 dated 24.11.2022 registered under sections 406/420/120-B of IPC at P.S.: Vasant Kunj South, New Delhi.

9. Learned APP submits that apart from non-compliance of the conditions of interim bail as aforesaid, the State leaves it to the court to pass appropriate orders on the petitioner's prayer for regular bail. Furthermore, learned APP also very fairly submits that considering charge-sheet has now been filed in the matter and the petitioner is appearing before the learned trial court from time-to-time, the reporting requirement imposed by order dated 17.03.2023 is not necessary any longer.
10. Addressing the allegation of non-compliance with the terms of interim bail, learned counsel for the petitioner submits, that insofar as the condition imposed *vide* para 4(vi) of order dated 17.03.2023 is concerned, that condition has since been held to be violative of the right of privacy guaranteed under Article 21 by the Supreme Court in ***Frank Vitus vs. Narcotics Control Bureau & Ors.*¹**; and there can no longer be any requirement for the petitioner to comply with the said condition.
11. Insofar as the condition imposed in para 4(vii) of the said order is concerned, Mr. Prakash submits that the petitioner was duly complying with the said condition until in a very unfortunate incident, on 21.04.2023 she was shot-at in the premises of the Saket District

¹ 2024 SCC OnLine SC 1657



Courts, whereafter the petitioner did not appear before the Investigating Officer fearing for her life.

12. Learned counsel for the petitioner submits, that in fact as part of order dated 17.03.2023, the petitioner was also directed to attempt a mediated settlement in the matter, which she did; however the mediation ended as 'Not-Settled' *vide* Mediator's Report dated 10.04.2023 since in the course of mediation the complainant in the present case insisted that the petitioner should settle her money disputes not only with the present complainant, but with other complainants as well, which was not possible. Counsel points-out however, that in compliance of order dated 17.03.2023, the petitioner has duly deposited the sum of Rs.5 lacs with the Registrar General of this court; and has therefore complied with all other conditions of interim bail.
13. The court is informed that arising from the shooting incident on 21.04.2023, the complainant in the present case is now himself in judicial custody.
14. On the other hand, Mr. Krishnaamorthi, learned counsel representing the complainant submits, that the petitioner has not only cheated the complainant in the present case but also many other persons, in relation to which several other FIRs have been registered against her, copies of which have been appended as part of index dated 01.07.2024 filed by the complainant in the present case.
15. Counsel for the complainant submits, that it is for this reason that *vide* order dated 15.05.2024 made in BAIL APPLN. No.2912/2023, a Co-ordinate Bench of this court had declined anticipatory bail to the



petitioner, observing that looking at the matter holistically, the petitioner has a propensity to enter into transactions with innocent persons with intent to cheat and defraud.

16. Though the nominal roll is not on record, the court is informed that the petitioner was taken into custody in the present FIR on 14.12.2022; whereafter she remained in custody until she was released from custody on interim bail *vide* order dated 17.03.2023; and that she was thereafter re-arrested in a different FIR on 26.06.2024.
17. Upon an overall conspectus of the facts and circumstances of the case; restricting itself to the allegations against the petitioner in the present FIR; and based on the position taken by State, namely that they are opposing confirmation of interim bail only on the ground of violation of conditions Nos. 4(vi) and 4(vii) imposed *vide* order dated 17.03.2023 as discussed above, this court is persuaded to admit the petitioner – **M. Radha d/o Manikam** – to *regular bail* in case FIR No.429/2022 dated 25.11.2022 registered at P.S.: Saket, New Delhi, subject to the same conditions as were imposed *vide* order dated 17.03.2023 *except* that the conditions imposed by paras 4(vi) and 4(vii) of that order shall stand deleted.
18. The bail petition is disposed-of in the above terms.
19. Pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 16, 2024/ak