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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 279/2024

KUMARI SAVITA SINHA

..... Applicant

Through: Mr. Prakash Kumar Singh,
Mr. V.K. Pandey,
Mr. Simanta Kumar &
Ms. Aarti Southey,
Advocates

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Pradeep Gahalot, APP
for the State with SI
Dharamveer, PS Chhawla.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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05.02.2024

CRL.M.A. 2275/2024 (exemption from filing certified copy of order), CRL.M.A. 2276/2024 (exemption from filing official translation of FIR) & CRL.M.A. 2277/2024 (exemption from filing latest status report filed by IO before learned Trial Court)

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC'), seeking grant of regular bail in FIR No. 225/2022 dated 12.04.2022, registered at Police Station Chhawla for offences under Sections 467/468/471 of the Indian Penal Code, 1860 ('IPC').
2. The present FIR was registered on a complaint made by ASI Dilawar Singh/ complainant alleging that on 12.04.2022, at

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around 10:00am, one person namely, Mukesh Kumar, came to the BSF Camp, Chhawala with a forged appointment proposal Letter (No. R-7/089/SIG/SS C/GD-13, dated 23.03.2022) for appointment in 25th Batallion whereas, the BSF Office had not issued any such appointment. The complainant alleged that the appointment proposal letter along with the affixed stamp and signature, is forged.

3. On the aforesaid allegations, the present FIR came to be registered.

4. During the course of the investigation, it emerged that the applicant/accused, in connivance with co-accused Ghanshyam, who presented himself as DSP (Retired) Sandeep, entered into an agreement with Mukesh for a sum of ₹5 lakhs in exchange for facilitating his appointment in the BSF. As part of this arrangement, Mukesh initially handed over ₹1,50,000 in cash to the applicant/accused on 03.02.2023. Subsequently, upon receiving the alleged forged appointment letter, Mukesh deposited a further sum of ₹1,50,000 into the bank account of the applicant/accused. The applicant's account was also linked to Ghanshyam's mobile number, through which the accused/applicant conducted regular transactions.

5. The applicant, in the present case, was arrested on 08.12.2023.

6. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case as she herself is a victim of the actions of the main accused namely, Ghanshyam.

7. The learned counsel submits that the charge sheet in the present case has been filed under Sections 420/120B of the IPC *qua* the present applicant, and the investigation is complete.



Therefore, no useful purpose could be served in keeping the applicant in further custody.

8. He submits that the applicant has deep roots in the society and there is no likelihood of her fleeing the administration of justice.

9. He submits that the other accused persons including the main accused Ghanshyam, have been enlarged on bail by the learned Trial Court.

10. The present case is based on documentary evidence which is already in possession of the Prosecution, which led to filing of the chargesheet in the present case.

11. The applicant, being a woman, is undeniably entitled to special consideration while dealing with the question of bail, in terms of the proviso to Section 437 (1) of the CrPC. The applicant is a house wife and has to take care of children, one of whom is a minor. It is also not disputed that the applicant has any antecedents.

12. It is to be borne in mind that at the pre-conviction stage, there is a presumption of innocence. Detention is not supposed to be punitive or preventive.

13. It is also apposite to refer to the observations made by Hon'ble Supreme Court in ***Sanjay Chandra v. CBI : (2012) 1 SCC 40***

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.



22. From the earliest 1972, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances."

14. It is not disputed by the Prosecution that the investigation in the present case is complete and charge sheet has been filed and the co-accused persons have already been enlarged on bail and the role attributed to the applicant is not graver than the role of the other co-accused persons. Evidently, the custody of the applicant is no longer required.

15. Considering the aforesaid facts, and the fact that the co-accused persons have been already released on bail, this Court is of the opinion that no purpose would be served by keeping the applicant in further incarceration.

16. In view of the above, the applicant is directed to be released on bail in FIR No.225/2022 on furnishing a bail bond for a sum of ₹50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty Metropolitan Magistrate on the following conditions:

- a. The applicant shall provide the address where she would be residing after the release and shall not change the address without informing the concerned IO/ SHO;
- b. She shall appear before the learned Trial Court as and when directed;
- c. She shall under no circumstance leave the country without



the permission of the Court.

d. She shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

17. In the event of there being any FIR/DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal.

18. The present application is allowed in the aforesaid terms.

19. It is clarified that the observations made hereinabove are only for the purpose of considering the bail application and the same shall not be deemed to be an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

FEBRUARY 5, 2024

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