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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 186/2022**

AFZAL

..... Applicant

Through: Mr. Omkar Sharma,
Mr. Ghanshyam Sharma &
Mr. Rahul Sharma,
Advocates

versus

THE STATE

..... Respondent

Through: Mr. Utkarsh, APP for the
State with SI Doongasri,
PS Hauz Khas

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
12.01.2024

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1. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') seeking grant of pre-arrest bail in FIR No. 226/2021 dated 09.07.2021, for offences punishable under Sections 379/380/411/454/34 of the Indian Penal Code, 1860 ('IPC'), registered at Police Station Hauz Khas.

2. This Court by an order dated 19.01.2022 had granted interim protection to the applicant from arrest, subject to the following conditions:

- *“he shall not leave the city of Delhi;*
- *he shall keep his mobile phone on at all times;*
- *he shall provide his mobile number to the Investigating Officer during the course of the day and shall email the same to the Court Master of this Court to be placed on the record;*
- *he shall drop a PIN on the google map to ensure that his location is available to the Investigating*



Officer;

- *he shall commit no offence whatsoever till the period he is granted protection in the instant case;*
- *he shall appear before the Investigating Officer as directed hereinabove.”*

3. The learned counsel for the applicant submits that the applicant has since joined investigation on many occasions. However, despite a period of two years having lapsed since then, the chargesheet has not been filed.

4. The learned Additional Public Prosecutor for the State submits that even though the applicant has joined the investigation, he has not cooperated with the same. He submits that the applicant has changed his version, each time he was interrogated.

5. It is significant to note that no application has been filed by the State seeking cancellation of the interim protection granted by this Court, by the order dated 19.01.2022, on the ground that the applicant has not cooperated with the investigation. More so, the meaning and the purpose of the interrogation/investigation cannot be that the accused gives a version which the police deems appropriate. Merely because the applicant has not admitted guilt, the same does not amount to non-cooperation with the investigation.

6. At this stage, the allegations against the applicant are that he had received/purchased the stolen property. The allegations at this stage do not support the invocation of Sections 379/380/454 of the IPC *qua* the applicant.

7. The offence punishable under Section 411 of the IPC attracts imprisonment of either description for a term which may extend to three years, or with fine, or with both.

8. In view of the above, this Court is of the opinion that no
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purpose would be served by allowing the custodial interrogation of the applicant.

9. Considering the aforesaid facts, this Court feels it apposite to allow the present bail application. In the event of arrest, the applicant is directed to be released on bail on furnishing a personal bail bond for a sum of ₹1,00,000/- (Rupees One Lakh Only) with one surety of the like amount to the satisfaction of the concerned SHO, subject to the following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the Investigating Officer;
- b. The applicant shall not tamper with the evidence in any manner;
- c. The applicant under no circumstance shall contact the complainant or any of the witnesses;
- d. The applicant shall not leave the boundaries of the city without informing the concerned Investigating Officer;
- e. The applicant shall provide his mobile number to the Investigating Officer during the course of the day and keep his mobile phone on at all times.

10. It is clarified that the observations made in the present order are for the purpose of deciding the present bail application, and should not influence the outcome of the Trial. The said observations should not be taken as an expression of opinion on the merits of the case.

11. The present application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

JANUARY 12, 2024
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