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

\+ CRL.M.C. 859/2024

RAJ KUMAR .....Petitioner

Through: Mr. Shrey Sharawat, Mr. Nitish Ojha, Mr. Siddharth Luthra, Mr. Arjun Gupta, Mr. Sooraj Bhalla, Mr. Laxman Yadav, Mr. Neeraj Kumar Jha, Advs.

versus

STATE OF NCT OF DELHI AND ANR. .....Respondents

Through: Mr. Raghuinder Varma, APP for State and SI Chetan Rana, PS V. K. South. Mr. Gaurav, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

O R D E R

% **31.07.2024**

1. The present petition has been filed seeking setting aside of the order dated 09.01.2024 passed by Ld. District Judge, Patiala House Courts in CRL. Revision Petition No. 679/2023 titled "*Rakesh Verma vs. State of NCT of Delhi & Anr.*" to the extent of furnishing of bank guarantee in the tune of Rs. 30,00,000/-.

2. Learned Principal District and Session Judge has directed the petitioner/complainant to furnish a bank guarantee against the amount to be released.

3. Ld. Session Judge was further pleased to direct that the petitioner/ complainant shall furnish additional bank guarantee of the interest

accrued as if amount is deposited in the FDR in the bank, with the court by 15th April of each year starting from 2025 onwards.

4. In the present case, Ld. MM vide order dated 27.09.2023 after considering all the material on record directed the deposited amount to be returned to the complainant on furnishing of a indemnity bond in the sum of Rs. 30 lakhs and an undertaking in the form of affidavit in court stating that the complainant shall surrender the amount as and when the court directs.

5. Learned counsel for the petitioner submits that the order passed by Ld. Principal District and Session Judge is totally unreasonable. Learned counsel submits that the furnishing of a bank guarantee is as good as depositing the amount in the bank.

6. Learned counsel submits that if the bank guarantee is to be furnished there would be no purpose of releasing the amount to the petitioner. Learned counsel submits that therefore the order under challenge suffers from incorrectness and infirmity.

7. Learned APP for the state has submitted that the order of the Ld. Session Judge is quite reasonable and aims at balancing the interest of the parties.

8. Learned counsel for accused/ respondent No.2 states that at the first the order regarding the deposit of money by the Ld. Sessions Court while granting bail was not reasonable. However, it is a matter of record that the order vide which the bail was granted by the Ld. Sessions Court has not been challenged by the respondent No.2. The complainant has also submitted that impugned order is just and reasonable to protect the interest of the complainant.

9. I consider that the impugned order cannot sustain in the eyes of the law. This Court considers that if the applicant/accused deposits the amount to show his bonafide, the endeavour of the trial court should not be to further impose a condition/pre-requite of furnishing a bank guarantee to the equal amount while releasing the said amount to the applicant/accused as it may be excessive in nature.

10. The order of the Ld. Principal District and Session Judge directing furnishing of bank guarantee certainly put an excessive onerous. The amount to be released has been deposited by the respondent/accused voluntarily. The order passed by Ld. M.M. is just and reasonable. Hence, the impugned order is set aside.

11. Let the amount deposited before the trial court be released to the petitioner in terms of the order dated 27.09.2023 of Ld. ACMM-II, PHC.

12. In view of the above, the petition stands disposed of.

DINESH KUMAR SHARMA, J

JULY 31, 2024/AR/HT..