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

\+ BAIL APPLN. 495/2023

HANUMAN PRASAD ..... Petitioner

Through: Mr. Vishwendra Verma, Advocate.

versus

STATE ..... Respondent

Through: Mr. Laksh Khanna, APP for State with SI Yogesh PS Kotwali, Delhi.
Mr. Pramod Kumar, Advocate for complainant.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

<u>O R D E R</u>

% **22.02.2024**

1. The present application has been filed under Section 438 read with Section 482 Cr.PC. seeking anticipatory bail in FIR No. 765/2022 registered under Section 406 IPC at P.S. Kotwali, Delhi.

2. Learned counsel for the petitioner/applicant states that the applicant has been falsely implicated in the present case as the dispute relates to a business transaction of gold between the parties that took place vide “Issue voucher” dated 06.01.2021. The applicant being a trader had sold the entire quantity and reimbursed the complainant. After the said transaction, the parties had entered into further transactions vide “Issue vouchers” dated 15.02.2021, 24.02.2021and 24.08.2021 which were also completed and in this regard, learned counsel has referred to the “receipt vouchers” dated 24.08.2021, 01.02.2022 and 21.04.2022.

3. It is contended that the present the present FIR came to be registered only on 06.08.2022 for the transaction relating to “Issue voucher” dated

06.01.2021 and is thus highly belated. The complainant has failed to show if anything was remaining under the transaction dated 06.01.2021 then why it entered into subsequent transactions.

Lastly, it is submitted that pursuant to directions, the applicant has also joined investigation.

4. Mr. Laksh Khanna, learned APP for State duly assisted by learned counsel for the complainant has vehemently opposed the bail application. It is stated that the complainant had given a complaint on 21.12.2021, whereafter the applicant had preferred an application for grant of anticipatory bail on 15.01.2022. On 17.01.2022, the applicant joined the investigation and gave a handwritten letter to the SHO, wherein he admitted that he had received the gold and stated that he would pay the remaining amount towards the gold in six instalments beginning from the month of January, 2022. The said communication was statedly also signed by the applicant's counsel. Consequently, the said bail application came to be withdrawn on 18.01.2022.

The applicant again joined investigation on 01.06.2022 and his statement was recorded wherein it was stated that he would return 200 gms of gold by 12.06.2022 and the remaining gold in 20-30 days thereafter. A second anticipatory bail application came to be filed on 13.06.2022 which was dismissed on 14.06.2022. On 02.01.2023, notice under Section 41A Cr.P.C. was issued to the applicant, whereafter he preferred a third anticipatory bail application on 10.01.2023 and the same came to be dismissed vide order dated 31.01.2023.

It was thus contended that the applicant had admitted to return the unsold gold which he eventually failed to return.

5. The instant bail application is accompanied by copies of various "Issue vouchers" and "Receipt vouchers". While learned counsel for the applicant has contended that the "Issue vouchers" relate to the transactions wherein] gold ornaments are handed over by the complainant to the applicant for further trading, the "Receipt vouchers" reflect the unsold inventory handed back to the complainant. He has further canvassed that the "Issue vouchers" and "Receipt vouchers" pertained to different transactions. The stand taken by the applicant is contested by learned APP for State as well as by the learned counsel for the complainant. They have taken the Court through the various "Issue and Receipt vouchers" to show that out of the total gold quantity of 1068.120 gms, the applicant is yet to return gold quantity of 918.940 gms.

During investigation, the balance-sheet maintained by the complainant has been seized as per which, against the initial handing over of 1068.120 gms of gold, certain quantities of gold were returned and afresh "Receipt voucher" was issued indicating the remaining amount of gold to be returned. The detailed analysis of the various "Receipt vouchers" and the amount of gold remaining to be returned is as under:-

HANUMAN JI BALANCE SHEET

TOTAL DUE: 918.940

Date	Last due	Fine 100%	Present	Balance
06.01.2021		1068.120	0	1068.120
15.02.2021		1068.120	50.220	1017.900
24.08.2021		1017.900	30.25	987.650
01.02.2022		987.650	50.26	937.390

21.04.2022		937.390	18.45	918.940

6. A perusal of the entire factual matrix as detailed above would show that the allegations against the applicant are serious in nature inasmuch as it reflects that 918.940 gms of gold is yet to be returned.

7. It is pertinent to note that the applicant has canvassed that the subsequent “Issue vouchers” show that a fresh transaction of gold took place. On the contrary, it is observed that post transaction of 06.01.2021, every time the applicant had returned some quantity of gold a, corresponding receipt voucher was issued for the same. At the same time, a fresh “Issue voucher” was issued for the remaining unsold inventory.

8. The above table mathematically shows that all “Issue vouchers” and “Receipt vouchers” in fact, relate to the original transaction of 06.01.2021 vide which the applicant was handed over 1068.120 gms of gold. The contention by applicant to contend that every “issue voucher” meant a new transaction, is nothing but misleading.

9. It is trite that at the time of consideration of bail application, the Court is not required to undertake a detailed analysis of the evidence on record rather, it has to be satisfied that there is a prima facie view that the applicant is alleged to have committed the offence. In view of the aforesaid, I find no ground to entertain the present application and the same is accordingly dismissed.

MANOJ KUMAR OHRI, J

FEBRUARY 22, 2024/*rd*