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

\+ BAIL APPLN. 505/2024, CRL.M.A. 4400/2024, CRL.M.A. 4401/2024

AHBINAV KUMAR ..... Petitioner

Through: Mr. Srivab Kaushal and Mr. Rahul Raman, Advocates.

versus

GOVT. OF NCT OF DELHI & ANR. ..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State with Insp. Sandeep Maan, P.S. EOW. Mr. Bharat Sharma, Mrs. Honey Chopra, Mr. Sunil Chopra and Mr. Anil Bhati, Advocates for respondent No.2.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

O R D E R

% **12.02.2024**

1. By way of present application filed under Section 438 Cr.P.C., the petitioner/applicant seeks anticipatory bail in FIR No.126/2022 registered under Sections 120B/408/420 IPC at P.S. EOW.

2. Learned counsel for the applicant submits that applicant is 31 years of age and has no role in the present case. It is stated that he has been made an accused only to harass him. He further submits that the complainant (Authorized Representative) has filed 3 complaints dated 03.09.2021, 01.10.2021 and 07.10.2021, and that there are contradictions in the said complaints in as much as different amounts have been quoted as the funds misappropriated.

3. The present application is vehemently opposed by the learned APP for the State, duly assisted by the counsel for the complainant. He submits that the applicant worked as Chief Manager (Sales), Bluejack Auto in the complainant's company namely *Car Trade Exchange Solutions Pvt. Ltd.* from 14.01.2020 to 27.10.2021. During this time, an MoU was executed between complainant company and one GAPL, whereby the applicant was entrusted with selling/auctioning the vehicles received from one Mr. Padmanabhan (representative of GAPL). It has been alleged that the applicant dishonestly reduced the auction price of the vehicles and caused wrongful loss of more than Rs.7.5 crore. The applicant further misappropriated the funds and deliberately transferred the same into his personal account as also as into the account of his relatives.

On the aspect of investigation, it has been submitted that written notices under Section 41A Cr.P.C. were issued to applicant on 17.08.2023 and 07.10.2023. Additionally, notices were also served on his Mobile number and email ID. However, the applicant did not join the investigation. Further, during the course of inquiry/investigation, the applicant was not found residing at the mentioned addresses in U.P. and Delhi. Though, the parents of the applicant were found residing therein, who stated that the applicant had not visited them since last two years.

4. I have heard the learned counsel for the parties and have also perused the material placed on record. The allegations against the applicant relate to large-scale cheating as well as misappropriation of funds. The investigation has revealed that while the applicant was provided a list of cars alongwith the starting price of the auction by Mr. Padmanabhan, he would forward the details to the sale teams, but would intentionally reduce the auction price,

resulting in selling of the cars at lower rates. Sale transaction w.r.t two vehicle Nos. MH 04 HM 3938 and DL 12 CE 5689 showed that not only were the same sold at prices lower than the one fixed by GAPL, but that a majority of the sale amount was received by the applicant in his personal account or in the account of his relatives. Further, the cars were sold mentioning the seller name as 'MY CAR POINT'. The sale proceeds were received in applicant's account from the account of 'MY CAR POINT'.

Further, it has also been revealed that not only did the applicant sell the cars at lower prices, but also concealed the details of the same from the complainant company as well as GAPL and showed that the same were sold at a price higher than the one fixed. As per the statement of one Kalyan Kumar Malla, Director and Chief Account Officer of the complainant company, the applicant had caused loss of more than Rs.5 crore, which were adjusted as miscellaneous expenses in the balance sheet of the year ending 31.03.2022. Scrutiny of certain accounts belonging to the applicant as well as his wife and relatives showed receipt of large sums from buyers of the cars as well as subsequent transfers of the amount to the account of the applicant. Particularly, the account of Ms. Komal Kumari, the wife of applicant was analysed and it was revealed that it had entries from one Shiv Shankar Motor to the tune of Rs. 6,60,000/- and the said amount was later transferred to account of the applicant. Various suspicious entries were also found credited in one of the accounts of the applicant. All these facts prima facie establish the case of the cheating and misappropriation against the applicant.

5. Considering the aforesaid factual situation as well as the fact that despite issuance of notice under Section 41A, the applicant failed to join the

investigation, I find no ground to grant anticipatory bail in the present matter. Consequently, the bail application alongwith pending applications is dismissed.

MANOJ KUMAR OHRI, J

FEBRUARY 12, 2024
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