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

+ **BAIL APPLN. 739/2024**

PRIYANKA BHARDWAJ SINDHU Applicant

Through: **Mr. Manish Pratap Singh
& Mr. Ajay Singh, Adv.**

versus

STATE OF NCT OF DELHI Respondent

Through: **Mr. Utkarsh, APP for the
State
SI Vinay, PS-
Keshavpuram**

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.02.2024**

CRL.M.A. 6560/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') seeking pre-arrest bail in FIR No. 863/2023 dated 23.11.2023 registered at Police Station Keshav Puram for offences punishable under Sections 420/34 of the Indian Penal Code, 1860 ('IPC').
4. The FIR was registered on a complaint filed by the complainant alleging that the applicant and her associates had taken money on the pretext of providing services for obtaining the work permit Visa. It is alleged that apart from the complainant fourteen other persons had also applied to the



applicant and her associates for the work permit Visa and made payments.

5. The learned Counsel for the petitioner submits that the applicant is ready to pay back the money to the complainant. He submits that the applicant was not in direct touch with the complainant and is being falsely being implicated in the present case.

6. The learned Additional Public Prosecutor for the State, at the outset, points out that the applicant has been involved in cheating, not only the present complainant but other innocent persons for which multiple FIRs have been registered against the applicant.

7. He submits that on an earlier occasion, a BAIL APPLN 2965/2023 seeking pre-arrest bail in FIR No. 704/2022 was filed before this Court. A coordinate Bench of this Court, by order dated 05.09.2023 had dismissed the bail application filed by the applicant. In the said order, it is also recorded that another FIR bearing FIR no. 749/2022 is being registered against the present applicant under Sections 420/468/471/120B of IPC, on the similar allegations of issuance of fake Visa and passports and of allegedly cheating the complainant therein, of certain sum of money.

8. He submits that that the present is not the first case against the applicant, even in FIR bearing no. 704/2022, the allegations were similar. He submits that the applicant has *modus operandi* of inducing people on the pretext of providing working Visa services and in exchange charging exorbitant sums of money.

9. He submits that whenever there is complaint against the applicant, she readily offers to pay back the money, and has the same line of argument.



10. He submits that even after the dismissal of the said bail application, the applicant has not joined investigation and has been evading arrest.

11. The applicant has also not disclosed the aforesaid facts in the present bail application.

12. The Hon'ble Supreme Court in *Pratibha Manchanda v.*

State of Haryana: (2023) 8 SCC 181 has observed that:

“The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.” (emphasis supplied)

13. In the present case it is seen that the applicant is a habitual offender and multiple FIRs have been registered against her by different complainants. The fact that applicant has not joined investigation despite the dismissal for her pre-arrest bail application in other FIR makes her a flight risk. The only time the applicant has joined investigation was when she was granted interim protection by the learned Trial Court.

14. The complainant has mentioned in the complaint that applicant and other co-accused persons obtained money from the complainant and fourteen other persons. Thereafter, applicant also shared through whatsapp of Mohan Lal, photographs of three work permit visas in the name of Heera Lal Bagga, Ms. Reena Negi and Mr. Puneet Gogna. The said visas were



subsequently found forged and fabricated.

15. The applicant from the aforesaid circumstances appears to be running a racket wherein innocent persons are allured and deceived in the name of providing work visas.

16. Arrest is a part of procedure of the investigation to secure not only the presence of the accused but also to serve other purposes in the aid of investigation. The grant of pre-arrest bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of pre-arrest bail. The pre-arrest bail is not to be granted as a matter of routine and only when the court is convinced that circumstances exist to resort to such extraordinary remedy that an order can be passed. Custodial interrogation is a recognized mode of investigation which is not only permitted but is held to be more effective.

17. Interrogation of an accused, while in custody, is qualitatively different from that undertaken while the accused is enjoying protection under an order of a Court against his arrest. This is a well-recognized position in law. It is the right of the investigating agency to conduct a proper and fair investigation. Hon'ble Supreme Court in the case of ***CBI v. Anil Sharma: 1997 7 SCC 187***, held that investigating a person appearing before the Investigating Officer under the protection of the Court order under 438 of the Cr.P.C. is qualitatively different from the custodial interrogation which would lead to better collection of evidence, thereby ensuring a proper investigation. Custodial interrogation is more elicitation – oriented than questioning an individual/suspect ensconced with a protection of Court Order.

18. At this stage, the accusation does not seem to have been made with the object of injuring or humiliating the applicant.



19. Keeping in mind the nature of allegations, and the fact that the applicant is *prima facie* the beneficiary of the offence, this Court is of the opinion, that any order of pre-arrest bail would harm the investigation and would impede the prospects of unearthing the truth.

20. It is not a fit case for exercise of discretion under Section 438 of Cr.P.C.

21. The application is, therefore, dismissed.

22. It is, however, made clear that any observations made in the present order are only for the purpose of deciding the present bail application, and should not be treated as an opinion on the merits of the case and also should not influence the outcome of the trial.

AMIT MAHAJAN, J

FEBRUARY 29, 2024

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