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

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Reserved on: 22.03.2024***Pronounced on: 01.04.2024***+ **BAIL APPLN. 946/2024 & CRL.M.A. 8243/2024****PRINCE MATHURAM JAYACHANDRA** PetitionerThrough: Mr. Shashwat Singh, Mr. Ilam
Paridi, Mr. R. Vishnu Kumar
and Mr. Aman Kumar,
Advocates

versus

STATE OF NCT OF DELHI RespondentThrough: Mr. Naresh Kumar Chahar,
APP for the State with
Inspector Anuj Kumar, P.S.
Metro and SI Saveen Kharb,
P.S. I.G.. Airport**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking anticipatory bail in case FIR No. 248/2015, registered at Police Station IGI Airport, Delhi for the offences punishable under Sections 420/468/471/120B of the Indian Penal Code, 1860 ('IPC') and Section 12 of the Passport Act, 1967.



2. Issue notice. Mr. Naresh Kumar Chahar, learned APP accepts notice on behalf of State.

3. Brief facts of the present case are that on 24.06.2015, a passenger Jarnail Singh was intercepted at IGI Airport by an immigration official and he was found to be in possession of passport with fake Schengen Visa. He had disclosed that one Jaswinder Singh @ Barmi had arranged this fake Visa on the advance part payment of Rs. 4 lakhs and the remaining amount of Rs. 4.5 lakhs were to be paid upon his arrival at Italy. Thereafter, co-accused Jaswinder Singh @ Barmi was arrested who had disclosed that he had arranged journey of the passenger Jarnail Singh with the help of his co-associates Rajan Kumar and Tarsem Singh and had paid them Rs. 4 lakhs in the account of Rajan Singh. During investigation, co-accused Rajan Kumar was arrested who had disclosed that he works for ICAZUAL Entertainment India Private Limited, Chennai and its Director Mr. Prince J. Mathuram i.e. present applicant. He had further disclosed that he had transferred a sum of Rs. 2 lakhs in the bank account of the present applicant and Rs. 2 lakhs were deposited in the account of Godwin Jayachandran, who is the real brother of the present accused/applicant. The present accused/applicant could not be arrested during investigation as he was out of India and LOC was issued against him. Upon his arrival, he was arrested in some other case, but he did not join the investigation in the present case.

4. Learned counsel for the applicant/accused argues that the I.O. had not served notice under Section 41 of Cr.P.C. to the present



accused for joining investigation. It is further argued that the applicant is ready to join investigation as and when required by the I.O. It is also stated that the applicant was in detention centre as he did not have a valid visa and was arrested in another case and was in judicial custody, and therefore, there was no occasion for him to have not deliberately joined investigation. It is also submitted that chargesheet has also been filed in this case and since the applicant was not arrested during investigation, he cannot be arrested pursuant to filing of chargesheet. Therefore, it is prayed that the applicant be granted anticipatory bail.

5. Learned APP for the State, on the other hand, argues that the present accused/applicant has criminal antecedents and the facts of the present case reveal a deep rooted conspiracy. It is further argued that the applicant is the mastermind of this entire syndicate of preparation of fake visas and, thus, custodial interrogation of the accused is required for the purpose of effective investigation. It is further argued that the accused could not be traced despite best efforts by the I.O. as he had fled to UK and therefore, LOC had been issued against him. It is also argued that he is the main conspirator and, therefore, his prayer for grant of anticipatory bail be rejected.

6. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused the material available on record.

7. In the present case, this Court is of the opinion that it is apparent from the record that the present accused/applicant had not



joined investigation and could not be traced by the investigating agency as he had fled to UK and LOC had to be ordered to be opened against him. The facts of the case also reveal that the co-accused Jarnail Singh had come as a deportee from Italy as he was arrested there on the allegations that the Schengen Visa No. 002964536 affixed at page no. 7 of the passport of the accused was found to be fake and was thus cancelled.

8. During questioning, co-accused Jarnail Singh had led to identification and apprehension of co-accused Jaswinder Singh @ Barmi, who had revealed that he had arranged journey with the help of co-accused Rajan Kumar and Tarsem Singh. Co-accused Rajan Kumar had revealed that he had been given the fake visa by the present applicant/accused. Further, the investigation has established that co-accused Rajan Kumar had deposited Rs. 2 lakhs in the bank account of the present accused/applicant (ICICI Bank Ltd. Account No. xxxx02) and Rs. 2 lakhs in the account of co-accused Godwin Jayachandran. Co-accused Godwin Jayachandran was arrested through LOC who had further made disclosure that he received only Rs. 10,000/- from the dealamount and the remaining amount was given to the present accused/applicant and his associates.

9. It is the own case of the present applicant that he is not a citizen of India and is a British Passport Holder. The argument that the applicant was not in touch with the ultimate beneficiary is not meritorious since in a case of criminal conspiracy, it may not be essential that all co-accused persons should be in touch with each



other. The present applicant was also the Director of ICAZUAL Entertainment India Private Limited, Chennai and he had allegedly given the fake visa to co-accused Rajan Kumar, to be ultimately given to Jarnail Singh.

10. The record has revealed that the present applicant was also involved in another offence in Chennai and was lodged in Special Camp at Tiruchippalli and he could not exist without permission of District Collector. This Court is, however, of the opinion that the record itself reveals that in the year 2020, the Hon'ble High Court of Madras *vide* order dated 19.08.2020 had permitted the applicant to reside with his father at his home in Coimbatore. These conditions were thereafter modified *vide* order dated 27.01.2021 since the address of applicant's father had changed from Coimbatore to Chennai. Thus, the applicant had every opportunity to have informed the police at Delhi that he had been apprehended in another case by the police in Tamil Nadu.

11. One of the arguments of the learned counsel for applicant was that since the chargesheet has been filed and the heading of para 11 of the chargesheet reads "*Particulars of the accused person charge sheeted*", and since the petitioner is named as accused no. 5 therein and he has not been arrested during investigation, he cannot be arrested pursuant to filing of the chargesheet. This argument, in this Court's opinion, has no merit since the applicant had been declared proclaimed offender and, therefore, it cannot be pleaded that since his name is mentioned in the chargesheet and he could not be arrested



during investigation, the police cannot now arrest him. The applicant had also filed an application of plea-bargaining under Section 265B of Cr.P.C. which has been rejected by the concerned Magistrate, however, it shows that since the seriousness of the offence has to be taken note of by the court of law while deciding the case and since he was already a proclaimed offender and at no point of time had joined investigation, the learned Magistrate was pleased to reject his application for plea-bargaining which has not been challenged by him before any superior court.

12. In view of foregoing discussion, and cconsidering the overall facts and circumstances of the case, no ground for grant of anticipatory bail is made out.

13. Accordingly, the present bail application along with pending application stands dismissed.

14. Nothing expressed hereinabove shall tantamount to any expression of opinion on the merit of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 1, 2024/zp