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

\+ BAIL APPLN. 948/2024

LALIT MOHAN .....Applicant

Through: Mr. Mohit Mathur, Sr. Advocate with Mr. Manish Pratap Singh, Mr. Deepal Goel, Mr. Praksh Chand, Mr. Bharat Tomar and Mr. Chanderjeet Singh, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Raj Kumar, APP with Mr. Nupur Singh, Mr. Amit Singh, Ms. Jaya Singh, Mr. Dipanshu Arora, Mr. Krishna Mohan Rai, Mr. Surender Kumar Yadav & Mr. Rajesh Rathi, Advocates with SI Vinay, PS Keshav Puram.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

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

% **29.07.2024**

1. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 (‘**CrPC**’) seeking grant of pre-arrest bail in FIR No. 863/2023 dated 23.11.2023, registered at Police Station Keshav Puram, for offences under Sections 420/34 of the Indian Penal Code, 1860 (‘**IPC**’).

2. The FIR was registered on the basis of a complaint made by Mr. Rajan Gogna. It is alleged that the applicant had introduced his daughter-in-law Priyanka Bhardwaj to Mr. Mohan Lal (father-in-law of the complainant). It is alleged that the accused Priyanka Bhardwaj and her associates had represented

that they provide work permit/visa for different countries, and that Mohan Lal could refer any of his friends/relatives for availing such services. It is alleged that thereafter the complainant had a meeting with the accused Priyanka and her associates. It is alleged that in the said meeting the complainant was allured by accused Priyanka and her associates to avail their services for obtaining work permit and visa.

3. It is alleged that the complainant, on the assurance of obtaining visa and work permit paid ₹2 lakhs to the accused Priyanka Bhardwaj. It is alleged that thereafter fourteen other persons applied with the accused Priyanka Bhardwaj and her associates to obtain work permit visa and made the payment. It is alleged that the accused Priyanka Bhardwaj and her associates, thereafter, provided fake and forged documents and cheated the complainant and fourteen other victims an amount of ₹29.80 lakhs.

4. The learned Trial Court *vide* order dated 12.03.2024 had dismissed the applicant's application for grant of pre-arrest bail.

5. The learned Senior Counsel for the applicant submits that the applicant is being falsely implicated in the present case. He submits that the applicant's involvement, if at all, is only to the limited extent that the applicant introduced his daughter-in-law to Mohan Lal (father-in-law of the complainant).

6. He submits that the complainant did not have any direct dealing with the applicant. He submits that the applicant was neither the beneficiary of any amount paid by the victims nor was he aware of the said work of his daughter-in-law.

7. He submits that the applicant is a 70 year old man with no criminal antecedents, and has nothing to do with the financial interest of the accused Priyanka Bhardwaj.

8. The learned counsel for the complainant submits that the applicant was always aware that accused Priyanka Bhardwaj and her husband Ravi, who is the son of the applicant, are not competent to provide visa services.

9. He submits that despite knowing the said fact, the applicant introduced not only the complainant but also fourteen more people to the accused Priyanka Bhardwaj.

10. He further submits that since the applicant was present in all the meetings and was a part of each and every transaction, his involvement in the said transactions cannot be ruled out.

11. The learned Additional Public Prosecutor for the State opposes the grant of any relief to the applicant. He submits that the applicant along with the accused Priyanka and co-accused Ravi are illegally running the work permit agency without any authority or registration.

12. He also submits that accused Priyanka and co-accused Ravi are absconding.

13. He submits that the accused Priyanka is a habitual offender, against whom many complaints for similar offences have been received. He further submits, that the applicant, being the father-in-law of the accused Priyanka, was aware of the previous conduct of his daughter-in-law.

14. I have heard the learned counsel for the parties and perused the record.

15. In the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra* : (2011) 1 SCC 694**, the Hon'ble Supreme Court dealt with the issue of pre-arrest bail, and the balance that needs to be maintained while granting the same to an accused and further laid down the factors that must be taken into consideration while granting pre-arrest bail and held as under:

"…112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:
i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
iii. The possibility of the applicant to flee from justice;
iv. The possibility of the accused's likelihood to repeat similar or the other offences.
v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;
ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail…"

16. It is the case of the prosecution that the applicant introduced his daughter-in-law Priyanka to the complainant's father-in-law. It is alleged that thereafter, accused Priyanka along with her associates allured the complainant to avail their services for obtaining work permit visa. It is alleged that the accused Priyanka and her associates provided fake and forged documents and cheated the complainant and fourteen other victims an

amount of ₹29.80 lakhs on the pretext of providing work permit visa.

17. As noted in the order dated 15.03.2024, the accused Priyanka Bhardwaj, who was the beneficiary of the entire amount and was also responsible for providing the visa services, is stated to be the main accused in the entire case. She is stated to be absconding and has not been arrested.

18. It is not disputed that majority of the money from the complainant was received through banking transactions. From the very nature of the offence and the allegations made, the entire incriminating material seems to be documentary in nature. It is not case of the prosecution that the applicant was the beneficiary of any amount received from the complainant. It cannot, at this stage, be said that the applicant had knowledge that his daughter-in-law was cheating the victims under the guise of providing work permit visa. The same would be tested during the course of the trial.

19. The applicant is admittedly a 70 year old person. The purpose of custodial interrogation is to aid the investigation and is not punitive. The age of the applicant is also a relevant factor which cannot be ignored.

20. It is not denied that the applicant has joined the investigation. The status report mentions that the applicant, on being asked, stated that Mr. Mohan Lal was a regular customer at his shop. He further admitted that he had introduced Mohan Lal to his daughter-in-law, and accepted that he had knowledge that the accused Priyanka was involved in the work of visas. He, however, denied having any knowledge of the transaction between the accused Priyanka Bhardwaj and the complainant. Not confessing to the crime alleged does not amount to non-

cooperation.

21. It is not in doubt that order for grant of bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

22. It is not disputed that the applicant is a resident of Delhi and has deep roots in the society. He is also running a garment shop under the name of Lavish Tailor at Tri Nagar.

23. Even otherwise, any apprehension regarding the applicant fleeing from justice, tampering with the evidence or not cooperating with the investigation can be taken care of by putting appropriate conditions.

24. In view of the above, this Court is of the opinion that the custodial interrogation of the applicant is not required. It is directed that in the event of arrest, the applicant be released on bail on furnishing a personal bond of ₹50,000/- with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

a) The applicant shall join and cooperate with the investigation as and when directed by the IO;
b) The applicant will not leave the boundaries of Delhi without informing the IO/ SHO concerned;
c) The applicant shall not contact the complainant / witnesses or tamper with the evidence in any manner;
d) The applicant shall give his mobile number to the concerned IO/SHO and shall keep their mobile phones switched on at all times;

e) The applicant shall provide the address of his residence to the IO/SHO and shall not change the same without informing the concerned IO/SHO.

25. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.

26. The bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

JULY 29, 2024
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