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

+ BAIL APPLN. 972/2024

NARENDRA SAROHA

.....Petitioner

Through: Mr. Abhik Kumar, Mr. Rinku Mathur,
Mr. Deepak Girdhar, Mr. Naveen
Kumar Singh and Mr. Satyam Singh,
Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Ankit Singh, PS Nangloi.
Mr. Pushpender Sharma and Mr.
Akshay Sharma, Advs. for
Complainant.

6

+ BAIL APPLN. 1245/2024

ANUJ MATHUR

CRL.M.A. 18832/2024

.....Petitioner

Through: Mr. Abhik Kumar, Mr. Rinku Mathur,
Mr. Deepak Girdhar, Mr. Naveen
Kumar Singh and Mr. Satyam Singh,
Advs.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Ankit Singh, PS Nangloi.
Mr. Pushpender Sharma and Mr.
Akshay Sharma, Advs. for
Complainant.

7

+ BAIL APPLN. 1318/2024

RAJ KUMAR MAHATO

.....Petitioner

Through: Mr. Ayushya Kumar, Mr. Sudeep
Deya and Ms. Natasha Goel, Advs.

versus



THE STATE

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Ankit Singh, PS Nangloi.
Mr. Pushpender Sharma and Mr.
Akshay Sharma, Advs. for
Complainant.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

18.12.2024

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1. These petitions have been filed for seeking regular bail in FIR No.304/2023 registered at P.S. Nangloi. Petitioners have been incarcerated since May, 2023. The allegations are under Sections 420/468/471/120B/34 IPC.
2. The allegations revolve around the complaint filed by various complainants that they were duped into paying substantial sums of money to the petitioners, who promised them jobs in Government departments, which never fructified. While the bail petitions were pending, a status report was filed, where the details of the money paid by the complainants to each of these petitioners have been tabulated.
3. It is seen from the table that some amounts have been paid through banking transactions and some amounts have been paid in cash. As regards the amounts paid through the bank accounts, the petitioners have respectively show their *bona fides* and attempted to 'return' the same to the respective complainants.
4. Narender Saroha has returned an amount of Rs.13 lacs to Kuldeep, and Rs.2.45 lacs to Ajay.



5. Anuj Mathur, as per the table, has received Rs.11.6 lacs from Yogesh Singh Rajput/complainant. However, Anuj Mathur's counsel submitted that as per the legal notice received by him for dishonour of cheque issued by Anuj Mathur, the said amounts were given due to a business transaction. This aspect was been vehemently denied by Yogesh Singh Rajput as well as his counsel.

6. Raj Kumar Mahto has paid a sum of Rs.5.15 Lacs to complainant/Kuldeep. Further, he has paid a further amount of Rs.3.35 Lacs on 02nd December, 2024. He has further tendered an amount of Rs.5 Lacs to Raja Ram Sharma, who has acknowledged the same. A further amount of Rs.1 Lac has paid to Vinay Mathur, which has been received.

7. These amounts which have been '*repaid*' are relatable to the banking transactions, through which the complainants paid the respective petitioners.

8. On the basis that the petitioners have been in custody since May, 2023 and the charge-sheets have been filed, the counsel for the petitioners plead for bail.

9. This is objected to by APP for the state, on the basis that the offences involve not only 420 IPC but also 467/468/471 IPC and as per the investigation, appointment letters issued to the complainants, were forged and fabricated, as ascertained through verification process from *inter alia* the Ministry of Home Affairs, Northern Railways, Income Tax Department, SBI and Greater Noida Industrial Development Authority (GNIDA).

10. APP for the State, submits that Supreme Court has also taken a view, that where forgery and fabrication of government departments and multiple complainants are involved, bail ought not to be granted. The APP for the State states, on instructions from the IO, that one supplementary charge-



sheet has been filed and other supplementary charge-sheet is yet to be filed and awaiting verification of documents.

11. Counsel for the petitioners have essentially canvassed their case on the basis that they had been in judicial custody since 26th May, 2023, the investigation is complete and the charge-sheet has been filed. The supplementary charge-sheet is only relating to an application by the Ministry of Home Affairs and does not relate any investigation relatable to them. The offence is triable by the Court of Judicial Magistrate, First Class. Moreover, four accused have already been enlarged on bail, namely, Surya Bhan Verma, Ankit Kumar Sharma, Ashutosh Kumar Sharma and Naveen Chouhan.

12. The APP for the State submits in this regard, that these co-accused had a different role to play, since they had neither approached the complainants nor received any money.

13. It is further submitted by the counsel for the petitioners, that the trial is yet to commence and there are 13 witnesses and 124 documents with a voluminous charge-sheet.

14. Further, petitioner Narender Saroha has been on interim bail earlier and petitioner Raj Kumar Mahto is currently on interim bail, due to medical reasons, and there is no allegation that they have tried to influence or threaten the complainants.

15. It is further pleaded that they all are residents of Delhi and not a flight risk and the evidence is purely documentary in nature. Further, they have already attempted to prove their *bona fides* by returning the monies, which were received by them, through cheque amounts/via transfers.

16. The case of the prosecution was based on various complaints



received, stating that the accused had cheated the complainants on the pretext of providing jobs in the government departments. Appointment letters and identity cards of different departments have been provided to the complainants. Pursuant to the investigation, charge-sheet has been filed.

17. Considering that the charge-sheet has been filed and the investigation is complete and that the evidence is documentary in nature and further that the two of the petitioners have been already out on interim bail and there has been no complaint of any influence on the complainants or the witnesses, the Court is inclined to grant bail to the petitioners.

18. The submission that there are multiple complainants and, therefore, the petitioners ought not to be granted bail is not in consonance with the principles enunciated by the Supreme Court for grant of bail as follows:

- (i) The Supreme Court in ***Satender Kumar Antil v. CBI***, (2022) 10 SCC 51, observed as follows:

“12. The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India...”

(emphasis added)

- (ii) The Supreme Court further made note of their observations in ***Sanjay Chandra v CBI*** (2012) 1 SCC 40, as under:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure



that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

(emphasis added)

- (iii) This aspect was also recently reiterated by the Supreme Court in ***Javed Gulam Nabi Shaikh v State of Maharashtra & Anr.*** 2024 SCC Online SC 1693, in decision dated 3rd July 2024, where the Supreme Court has usefully traversed the principles of law relating to bail, extracted as under:

“9. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law that bail is not to be withheld as a punishment.

*10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in ***Gudikanti Narasimhulu & Ors. v. Public Prosecutor***, High Court reported in (1978) 1 SCC 240. We quote:*



“What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial."

*11. The same principle has been reiterated by this Court in **Gurbaksh Singh Sibba v. State of Punjab** reported in (1980) 2 SCC 565 that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment.*

...

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations. ...



20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.”

(emphasis added)

19. Regarding the contention of the State and complainants, it is noted that the petitioners cannot be kept in custody for the purposes of recovery of the said amounts as has been noted by the Supreme Court in **Bimla Tiwari v State of Bihar** (2023) 11 SCC 607, the relevant paragraphs of which are exacted as under:

“9. We have indicated on more than one occasion that the process of criminal law, particularly in matters of grant of bail, is not akin to money recovery proceedings but what has been noticed in the present case carries the peculiarities of its own.

10. We would reiterate that the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail. The question as to whether pre-arrest bail, or for that matter regular bail, in a given case is to be granted or not is required to be examined and the discretion is required to be exercised by the court with reference to the material on record and the parameters governing bail considerations. Putting it in other words, in a given case, the concession of pre-arrest bail or regular bail could be declined even if the accused has made payment of the money involved or offers to make any payment; conversely, in a given case, the concession of pre-arrest bail or regular bail could be granted irrespective of any payment or any offer of payment.

(emphasis added)



20. The Supreme Court in ***Ramesh Kumar v. State (NCT of Delhi)*** (2023) 7 SCC 461 observed as follows:

“26. We may, however, not be understood to have laid down the law that in no case should willingness to make payment/deposit by the accused be considered before grant of an order for bail. In exceptional cases such as where an allegation of misappropriation of public money by the accused is levelled and the accused while seeking indulgence of the court to have his liberty secured/restored volunteers to account for the whole or any part of the public money allegedly misappropriated by him, it would be open to the concerned court to consider whether in the larger public interest the money misappropriated should be allowed to be deposited before the application for anticipatory bail/bail is taken up for final consideration. After all, no court should be averse to putting public money back in the system if the situation is conducive therefor. We are minded to think that this approach would be in the larger interest of the community. However, such an approach would not be warranted in cases of private disputes where private parties complain of their money being involved in the offence of cheating.”

(emphasis added)

21. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioners are directed to be released on bail on each petitioner furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioners will not leave the country without prior permission of the Court.



- ii. Petitioners shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
 - iii. Petitioners shall appear before the Court as and when the matter is taken up for hearing.
 - iv. Petitioners shall join investigation as and when called by the IO concerned.
 - v. Petitioners shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
 - vi. Petitioners will mark presence physically before the concerned I.O. every 1st Monday of every month at 4 p.m. and will be not kept waiting for more than an hour.
 - vii. Petitioners shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
22. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
23. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
24. Accordingly, the petitions are disposed of. Pending applications (if any) are disposed of as infructuous.



25. Order be uploaded on the website of this Court.

ANISH DAYAL, J

DECEMBER 18, 2024/MK/na