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

+ **CRL.M.C. 2301/2024 & CRL.M.A. 8877/2024**

ARPANA JOSHI

.....Petitioner

Through: Mr. Anil Goel and Mr. Aditya Goel,
Advocates (Through VC).

versus

STATE/NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Richa Dhawan, APP for the State
along with SI Dharm Singh, PS-
Hauz Khas.
Appearance not given on behalf of
the R-2.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

06.11.2024

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1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) seeking setting aside of the impugned order dated 21st February, 2024 passed in Reg No. 225/2024 in FIR No. 439/2023 registered at Police Station - Hauz Khas, Delhi for offences punishable under Sections 406/418/420/467/468/471 of the Indian Penal Code, 1860, by the learned ASJ-03 (South), Saket Courts, New Delhi.

2. Learned counsel appearing on behalf of the petitioner/complainant submitted that the first anticipatory bail application was rejected *vide* order dated 27th January, 2024 pursuant to which a notice under Section 41A was



issued to the respondent no. 2 on 1st February, 2024. In compliance of the said notice, the respondent no. 2 appeared before the Investigating Officer (“IO” hereinafter) on 5th February, 2024.

3. It is submitted that subsequent to the above, the respondent no. 2 moved another bail application bearing Reg No. 225/2024 which was vehemently opposed by the learned counsel appearing on behalf of the State before the Court concerned.

4. It is further submitted that the said bail application was opposed by the State on the ground that there is no change of circumstances after the dismissal of the first bail application, therefore, the same is liable to be rejected.

5. It is submitted that while granting the anticipatory bail to the respondent no. 2, the Court concerned has ignored the relevant facts of the case. *Firstly*, there are serious allegations against the respondent no. 2 and the first anticipatory bail application was dismissed after considering the gravity of the offences and the material on record. *Secondly*, the second anticipatory bail application was filed without disclosing the facts or bringing on record any propositions to show as to how there is any change of circumstances and the same was pointed out by the learned counsel appearing on behalf of the State before the Court concerned.

6. It is further submitted that the Court concerned, while ignoring the objections of the learned counsel for the State and without considering the changes of circumstances, granted the anticipatory bail to the respondent no. 2 without application of judicial mind. Therefore, the instant petition may be allowed as the impugned order be set aside being contrary to the law.

7. *Per contra*, the learned counsel appearing on behalf of the respondent



no. 2 has vehemently opposed the instant petition submitting to the effect that after dismissal of the first anticipatory bail application on 27th January, 2024, the notice under Section 41A was issued to the respondent no. 2 pursuant to which he appeared before the IO, joined the investigation and cooperated with the investigation as per the satisfaction of the IO.

8. It is submitted that after joining the investigation and cooperation of the respondent no. 2, the IO was satisfied as all the relevant documents required by him were submitted by the respondent no. 2, therefore, there is indeed a change of circumstances as the respondent no. 2 has now duly cooperated as per the satisfaction of the IO and has submitted all the relevant documents required for the investigation purposes. Further, the chargesheet has already been filed after completion of the investigation, and thus, the respondent no. 2 had filed the anticipatory bail application as he was under the apprehension that he may be arrested by the IO.

9. It is submitted that now the respondent no. 2 is cooperating with the IO and also undertakes to cooperate with the IO in further investigation as required and he shall appear before the IO/Court concerned as and when required. Therefore, it is prayed that in view of the foregoing submissions, the instant petition may be dismissed being devoid of any merits.

10. Thereafter, learned APP appearing on behalf of the State submitted that the respondent no. 2 is cooperating with the IO and the chargesheet has been filed after completion of the investigation. It is also informed to this Court that the investigating agency is going to file a supplementary chargesheet after getting the FSL report.

11. Heard learned counsel appearing on behalf of the parties and perused the record.



12. By way of the present petition, the petitioner has challenged the impugned order dated 21st February, 2024 by virtue of which the respondent no. 2 was granted anticipatory bail.

13. While granting bail to the respondent no. 2, the learned Court below observed that as per the factual matrix of the complaint, the complainant and the accused were in a business relationship. The complainant had alleged that the accused had forged certain documents and played fraud upon her. In view of the same, the Court concerned observed that the same is a disputed question of fact which is a matter of investigation. It was further observed that after collecting the original documents/documentary record from the Bank, with regard to which the complaint has been filed, the notice has already been issued by the IO, and the allegations advanced by the complainant with respect to forgery of the said documents and complainant's signatures can only be ascertained after its examination at the FSL. It was also observed by the learned Court below that the accused had joined the investigation with the IO.

14. Taking the aforesaid into consideration, the Court concerned granted anticipatory bail to the respondent no. 2 which has now been challenged by the petitioner.

15. This Court is of the view that as held in ***Gurbaksh Singh Sibbia v. State of Punjab***, (1980) 2 SCC 565, when a person apprehends arrest and approaches a court for anticipatory bail, his apprehension of arrest, has to be based on concrete facts and not vague or general allegations relatable to a specific offence or particular offences.

16. Moreover, applications for anticipatory bail should contain clear and essential facts relating to the offence, and why the applicant reasonably



apprehends his or her arrest, as well as his version of the facts. These are important for the Court while considering the application. Pertinently, the extent and reasonableness of the threat or apprehension of arrest, the gravity or seriousness of the offence and the appropriateness of any condition that may have to be imposed are also to be borne in mind.

17. With regard to the matter at hand, it is observed by this Court that the respondent no. 2 has duly participated in the investigation and has provided all the relevant information and documents as required by the IO, and the said facts have been admitted by the IO which is also apparent from the perusal of the impugned order.

18. Further, the learned Court below rightly observed that the documents *qua* which allegations of forgery and fraud have been made by the complainant are pending for report of the FSL in order to determine its veracity, which certainly is a matter of investigation.

19. Therefore, taking into account the aforesaid as well as the fact that investigation has been completed, chargesheet has been filed and the submission made by the learned APP that the investigating agency is going to file a supplementary chargesheet after getting the FSL report, this Court is of the considered view that the impugned order has been passed in accordance with the law and there is no illegality of any kind thereto, thus the same does not warrant the interference of this Court under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023).

20. Keeping in view the aforesaid discussions on law, this Court is of the view that the learned Court below passed the impugned order after taking into consideration the entire facts and circumstances of the case, as well as



the settled position of law and the instant petition is liable to be dismissed being devoid of any merits.

21. In light of the above discussions, the impugned order dated 21st February, 2024 passed in Reg No. 225/2024 in FIR No. 439/2023 registered at Police Station - Hauz Khas, Delhi for the offences punishable under Sections 406/418/420/467/468/471 of the Indian Penal Code, 1860, by the learned ASJ-03 (South), Saket Courts, New Delhi is, hereby, upheld.

22. Accordingly, the instant petition stands dismissed along with the pending applications, if any,

CHANDRA DHARI SINGH, J

NOVEMBER 6, 2024

rk/ryp

Click here to check corrigendum, if any