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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1278/2024 & CRL.M.A. 11096/2024**
VIKAS RATHEE Petitioner

Through: Mr. Anuj Raj, Mr. Mohit Rana,
Mr. Gajender Singh and Ms. Sapna
Kumari, Advocates.

versus

STATE OF NCT OF DELHI Respondent
Through: Ms. Kiran Bairwa, APP with SI Kapil
Singh, PS: Timarpur.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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10.04.2024

CRL.M.A. 11097/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

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1. An application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of anticipatory bail in FIR No 0499/2023, under Sections 408/34 IPC, registered at PS: Timarpur.
2. Issue notice. Learned APP for the State appears on advance notice and accepts notice.
3. In brief, as per the case of prosecution, present FIR was registered on complaint of Mohan Sharma, who alleged that he runs a company in the name of one Balaji Tilak Metal and Alloys Pvt. Ltd. at Delhi. On 01.09.2023, copper scrap weighing 12904.150 Kg was to be delivered in canter No.

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DL-1-MA-9068 from godown at Mandoli to Faridabad by his driver Kanahiya along with helper Rajender Paswan. Later on, Rajender Paswan came to Faridabad and informed the complainant that when the canter with copper scrap reached near Ambedkar College, Wazirabad Road, other employees of complainant namely Sourabh, Shami Panchal @ Gullu and Vishal @ Vikas Rathee along with one unknown person (accused) came and told Kanahiya and helper Rajender Paswan that complainant had asked them to handover the canter of copper scrap to them. They further asked them to sit inside the car and after 1-2 hours they handed over the empty canter to Kanahiya (driver) and Rajender Paswan (helper), after stealing the copper scrap weighing approximately 1.3 ton. Thereafter, on asking about the details of copper scrap from Kanahiya, he was unable to give any satisfactory answer and fled away.

4. It is further the case of prosecution that during the course of investigation Kanahiya and Farman were traced and arrested on 11.10.2023. They had further made disclosures regarding stealing of aforesaid copper scrap, which was initially kept at a godown at Paschim Vihar from where, 02 ton of cooper scrap was sold to one Yogesh Kansal, while the other co-accused Sourabh, Shami Panchal @ Gullu and Vishal @ Vikas Rathee sold rest of the copper scrap. About 02 ton of copper scrap, which was sold by Farman, was recovered from the shop of one Naveen Gupta in Tri Nagar.

5. Learned counsel for the petitioner submits that that matter has since been settled by accused Vishal @ Vikas Rathee with the complainant on 23.02.2024 and a sum of Rs. 11 lacs has been paid. It is further contended that co-accused Sourabh has since been admitted to anticipatory bail.

6. On the other hand, application is opposed by learned APP for State.



7. The case involves serious nature of allegations of breach of trust and theft of property valued more than Rs. 1 crore. The offence has been committed in furtherance of common intention and substantial amount of copper scrap is yet to be recovered. The recognition of settlements on the basis of return of amount by some of the accused on the basis of share in the booty is not in the interest of criminal machinery, and also hinders the process of investigation for recovery of remaining case property. It may be reiterated that the complainant has no right in law to withdraw the complaint or settle the offence of grave nature on the basis of compensation received from some of the accused. Criminal case once initiated becomes a matter between State and accused.

Considering the facts and circumstances and serious nature of allegations, no grounds for anticipatory bail are made out.

Application is accordingly dismissed. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J.

APRIL 10, 2024/R