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

% **Date of Decision: 25.04.2024**

+ **BAIL APPLN. 1312/2024**

SH. RAJESH GOGNA

..... Petitioner

Through: Mr. Mohit Mathur, Sr. Advocate with Mr. Moni Cinmoy, Mr. Avinash Mishra, Mr. Rahul Ranjan Verma, Mr. Ajay Tiwari, Mr. Sanju Kumar, Mr. Mayank Sharma, Mr. Abhilash Mathur, Mr. Sonu Bhatnagar & Mr. Harsh Gautam, Advocates.

versus

THE STATE (GOVT. OF NCT, DELHI) Respondent

Through: Mr. Naresh Kumar Chahar, APP for State with Inspector Sher Singh, SHO/ Vasant Vihar & SI Arisal, P.S. Vasant Vihar, Delhi.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the applicant seeking pre-arrest bail in caae FIR No. 46/2024 registered at Police Station Vasant Vihar, Delhi under Sections 506 of Indian Penal Code, 1860 ('IPC') and Section 25 of Arms Act, 1959.



2. The present FIR was registered on the statement of complainant Sh. Deepak Sateerja who had stated that on 13.03.2024, he and his wife had seen a red-colored bag kept outside the gate of their house, at around 4:30 PM, and they had not paid attention to it, hoping that the sweeper would remove the same the next day. He had further stated that again on 14.03.2024, at around 7:30 AM, the bag was still kept at the same place, and at around 6 PM, it was kept on the snooker table inside the gate. The complainant further stated that on 15.03.2024, his gardener had brought the said red bag to him on the third floor at 11:24 AM. It is alleged that when the complainant had opened the bag, he had found a box of sweets, inside which there was threatening handwritten note and two live cartridges. The police was called at the spot at around 3:32 PM, and thereafter, the present FIR was registered.

3. Learned Senior Counsel, appearing on behalf of the applicant, argues that the applicant has been falsely implicated in this case and there is no evidence to connect the applicant with the alleged commission of offence, which is nothing but a fabricated story of the complainant. It is argued that the applicant had been working as a Chief Operating Officer in Raymond Company and the complainant was the vendor, and since his contract was cancelled by the company, the complainant had a grudge against the applicant and he had been sending threatening messages to him and his wife. Since the complainant was not again empanelled as a vendor, he had got the present false and fabricated FIR registered against the applicant. Learned Senior Counsel further submits that as per averments in the



FIR, the complainant had initially noticed a red colour bag outside the gate on 13.03.2024, which was then kept at the snooker table inside the gate on 14.03.2024, and thereafter, it was brought by the gardener of the complainant on 15.03.2024 in the morning, however, the said version of the complainant, at the first instance, does not inspire any confidence for the simple reason that the said building has three floors occupied/owned by three different individuals and any bag lying outside/inside the gate could belong to any of the occupants of the said three floors but the gardener, immediately upon seeing the said carry bag, brought the said bag to the complainant and to no other occupant of the other floors despite the said bag not bearing the address of the complainant. It is also stated that initially at the time of registration of FIR, the complainant had not mentioned about receiving any threatening phone call on 14.03.2024. It is also stated that the applicant is ready to join investigation, which he had also joined pursuant to grant of interim protection by the learned Trial Court. It is also argued that the allegation of the prosecution regarding the applicant paying an amount of Rs. 1.5 lakhs to the alleged Saif Ali Khan is totally incorrect and the bank account statements of the applicant would clearly prove that no money was paid to him.

4. Learned APP for the State, on the other hand, strongly opposes the present bail application and argues that the allegations against the applicant are serious in nature, and the applicant, along with co-accused persons had conspired to commit the offence in question, by sending two live cartridges and a threatening letter to the complainant. It is submitted that co-accused Azam is a declared Bad Character of



P.S. Fatehpur Beri and is already involved in about 18 criminal cases, and the investigation so far has revealed that the present applicant was in constant touch with the co-accused persons and had paid money to them to execute the plan to threaten the complainant. Placing reliance on the status report, it is also submitted that the police so far has been able to collect evidence to show as to how the offence in question was committed on the directions of present applicant, who was having business dispute with the complainant. It is further pointed out that Non-Bailable Warrants against the applicant has been already issued by the learned Trial Court since he has been evading arrest, and his custodial interrogation is required to unearth the whole conspiracy, and to ascertain the source of live cartridges and the threatening letter. Therefore, it is prayed that this application seeking pre-arrest bail be dismissed.

5. This Court has heard arguments addressed by the learned Senior Counsel for the applicant as well as learned APP for the State, and has perused the material placed on record.

6. In the present case, the complainant had also disclosed to the police that one day prior to registration of FIR, i.e. on 14.03.2024, he had received a threatening phone call from mobile number 'x'. As per status report filed on record, the said mobile number was traced during the course of investigation and was found registered in the name of one Maya Ram@Chhotu. On inquiry, Maya Ram had disclosed that on 15.03.2024, one person had snatched his mobile phone to make some calls and thereafter, had fled away on his motorcycle after returning his mobile. The statement of Maya Ram



has also been recorded before the Magistrate under Section 164 of Cr.P.C. On the basis of the registration number of the motorcycle provided by Maya Ram, a raid was conducted at the house of co-accused Azam Khan, who ran away from his house, and the motorcycle was found registered in the name of his wife. Upon analysing the Call Detail Records, other co-accused namely Saif Ali was interrogated and arrested, who had disclosed that the present applicant had contacted him for threatening the complainant and had paid Rs. 1.5 lakhs to him. Saif Ali had then hired co-accused Azam Khan to execute the plan and had paid Rs. 1.5 lakhs to him. After execution of plan, Azam Khan had informed Saif Ali and had sent him photographs of sweet box containing two live cartridges and the threatening letter.

7. This Court's attention has also been brought towards the fact that the applicant had a meeting on 16.02.2024 with co-accused persons namely Saif Ali and Azam Khan, at JW Marriot Hotel, Aerocity, Delhi, which had lasted for about 25 minutes, and the same is corroborated by the CCTV footage. CDR analysis also reveals the fact that all the accused persons were in contact with each other. Further, the status report reveals that co-accused Azam, who is also absconding, is a declared bad character of P.S. Fatehpur Beri, Delhi and has 18 other criminal cases against him.

8. Thus, what appears from all the facts and circumstances is that the applicant is allegedly the main conspirator in the present case, who was having financial dispute with the complainant, and allegedly, he had hired co-accused Saif Ali and paid him Rs. 1.5 lakhs, who in



turn had hired co-accused Azam Khan to threaten the complainant by calling and sending the red coloured bag containing a threatening letter and two live cartridges.

9. In the given facts and circumstances, the custodial interrogation of the applicant seems necessary to unearth the entire conspiracy. Non-Bailable Warrants have already been issued against the applicant.

10. Thus, in view of the foregoing discussion, this Court is not inclined to grant anticipatory bail to the applicant.

11. Accordingly, the present bail application stands dismissed.

12. However, nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 25, 2024/hs