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

+ **BAIL APPLN. 1468/2024**

PIGLU MANDAL

.....Petitioner

Through: Ms. Kinnori Ghosh,
Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for State with SI
Mahavir Singh P.S. New
Friends Colony.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

02.08.2024

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CRL. M. A. 12837/2024 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

BAIL APPLN. 1468/2024 & CRL. M. (Bail) 718/2024
(anticipatory bail)

1. The present petition is filed under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') seeking pre-arrest bail in FIR No. 57/2017 dated 13.02.2017, registered at Police Station New Friends Colony, for offences punishable under Sections 406/420/34 of the Indian Penal Code, 1860.
2. The FIR was registered pursuant to a complaint made by the complainant, namely, Girish Tiwari, who alleged that the accused Raju Mandal had cheated him and other victims by taking an amount of ₹7,50,000/- on the false pretext of securing



jobs for them in Dubai and Singapore. It is alleged that some of the money was deposited into the bank account of the applicant.

3. The learned counsel for the applicant submits that the applicant has clean antecedents and he has been falsely implicated in the present case.

4. She submits that the applicant is the real brother of accused Raju Mandal. She submits that in such circumstances, the applicant cannot be faulted if some amount of money is deposited in his account at the instance of applicant.

5. She submits that the victims never interacted with the applicant. She submits that the investigation in the present case is almost complete and no purpose would be served by subjecting the applicant to custodial interrogation.

6. The learned Additional Public Prosecutor for the State opposes the grant of any relief to the applicant.

7. He submits that the amount was received in the account of the applicant and he was also a beneficiary in the present case.

8. He submits that the investigation is almost complete and the chargesheet will be filed shortly.

9. I have heard the counsel and perused the record.

10. 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..."*

11. The only allegation against the applicant, at this stage, is that some of the money was deposited by the victims into the applicant's account at the instance of accused Raju Mandal.

12. It is not alleged that the applicant was the one who induced the complainant and the other victims to deposit the cheated amount. It is also argued by the learned counsel for the complainant that the money so deposited was further transferred by the applicant to his brother – accused Raju Mandal and he is



not the beneficiary in the present case. Whether the applicant had any role in the commission of the offence and inducement of victims or if he is the beneficiary in the present case will be seen during the course of the trial.

13. All records in regard to deposit of money and bank statements have already been handed over to the State. The evidence, at this stage, seems to be documentary in nature, which is already in possession of the Investigating Agency.

14. This court *vide* order dated 07.05.2024 had granted interim protection to the applicant on him joining and cooperating with the investigation. It is not disputed that the applicant has since joined the investigation.

15. It is not in doubt that order for grant of pre- arrest 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.

16. The purpose of custodial interrogation is to aid the investigation and is not punitive. From the perusal of the Status Report, it appears that the investigation is complete to a large extent and does not require the applicant to be in custodial interrogation for the purpose of Investigating Agency to complete the remaining investigation, if any.

17. However, appropriate conditions ought to be imposed to allay any apprehension of the applicant fleeing from justice and tampering with the evidence.

18. In view of the above, it is directed that the applicant, in the event of arrest, be admitted on bail on furnishing a bail bond for



a sum of ₹50,000/- with one society of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- i. The applicant shall join and cooperate with investigation as and when directed by the Investigating Officer;
 - ii. The applicant shall not contact the complainant / witnesses or tamper with the evidence in any manner;
 - iii. The applicant shall not leave the country without the permission of the learned Trial Court;
 - iv. The applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
 - v. The applicant shall provide his residential address to the concerned IO/SHO and shall not change the same without informing the concerned IO/SHO.
19. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
20. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and also not be taken as an expression of opinion on the merits of the case.
21. The application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

AUGUST 02, 2024

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