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

+ **CRL.M.C. 4428/2023**

M/S KAISONS HOUSING CORPORATION THROUGH ITS AR

NARENDER SHARMA LTD

.....Petitioner

Through: Mr.Varun Chugh, Ms.Shagun Shahi
Chugh, Ms.Shreya Mittal and
Ms.Meera Chugh, Advocates

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr.Satish Kumar, APP for the State
alongwith SI Pooran Chand Sharma
Mr.Hirein Sharma, Advocate for R-2
Mr.Atul Sahi and Ms.Neha Giri,
Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

14.10.2024

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1. The instant petition under Section 439(2) of the Code of Criminal Procedure, 1973 (currently under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS")) has been filed on behalf of the petitioner seeking the following reliefs:-

"I. Cancel and Quash the Impugned Judgement and order dated 22.05.2023 passed by the Ld. ASJ in Bail Matter no.1595 of 2023, and directing the Respondent No.2/ Accused to surrender forthwith before the officials of P.S.-Greater Kailash in respect of FIR No. 38/2023 dated 15.3.2023 lodged at P.S.- Greater Kailash;

II. Direct the Investigating Agencies to seek assistance of the forensic/technical department for recovery of the data from the



electric gadgets that were destroyed by the Respondent No.2/Accused to recover the original forged and fabricated consultancy agreement dated 25.10.2021 and expedite the investigation in this matter to unearth the trail of money/cheated amount and unravel the conspiracy hatched by the Respondent No.2 for committing offences of cheating and forgery against the Petitioner;

III. Grant any other and/or further relief(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. Learned counsel appearing on behalf of the petitioner submitted that the learned Additional Sessions Judge (hereinafter as the “ASJ”) has ignored the material facts and evidence on record while granting bail to the respondent no. 2 *vide* the impugned order dated 22nd May, 2023.

3. It is further submitted that the learned ASJ, which granted the regular bail herein, had also earlier dealt with the application of anticipatory bail of respondent no. 2, wherein he rejected the application for anticipatory bail of respondent no.2 based on the following reasons, which were not considered while granting the regular bail *vide* impugned order -

“... The allegations against applicant/accused are grave and serious and the investigation is at the nascent stage. The custodial interrogation of applicant/accused would be required for recovery of required for recovery of original forged consultancy agreement, for ascertaining its authorship and for effective investigation.

... Therefore, considering the totality of the circumstances of the case and since custodial interrogation of accused would be required, I am not inclined to grant anticipatory bail to the applicant. Accordingly, instant application seeking anticipatory bail stands dismissed....”

4. Learned counsel appearing on behalf of the petitioner submitted that



the learned ASJ erred in passing the impugned order, without considering that the respondent no. 2 was allegedly received an amount of Rs. 2.55 Crores from one Shantanu Prakash for consultancy services procured *vide* the alleged Consultancy Agreement and that the said premise has failed to inspire any confidence in the investigation conducted by the investigating officer.

5. It is also submitted that the learned ASJ did not consider that the respondent no. 2 forged the said Consultancy Agreement and has destroyed all the electronic devices used for the said forgery, and therefore, releasing the respondent no. 2 on bail might lead to tampering of material evidence.

6. It is submitted that the learned ASJ failed to observe that the respondent no. 2 is alleged to have committed serious offences and therefore, he is required for custodial interrogation to unearth the case.

7. It is further submitted that the learned ASJ erroneously passed the impugned order as no ground for bail was meted out for the purpose of granting bail to the respondent no. 2.

8. On the query made by this Court, learned counsel appearing on behalf of the petitioner failed to answer whether the respondent No.2 has violated any of the terms and conditions of the bail granted to him *vide* impugned order.

9. *Per contra*, learned APP for the State submitted that the investigation has already been completed and chargesheet has been filed. On instructions, it is submitted that no violation has been recorded with respect to the terms and conditions of the bail imposed upon respondent No.2.

10. Learned counsel appearing on behalf of the respondent no. 2 also vehemently opposed the instant petition submitting to the effect that the



instant petition seeking quashing of the impugned order dated 22nd May, 2023 is bereft of any merits as the grounds made therein are baseless for the purpose of cancellation of bail.

11. It is submitted that the respondent no. 2 has always abided by the terms and conditions of the bail, which were imposed upon him by the learned ASJ.

12. It is further submitted that learned counsel for the petitioner has failed to reply to the query of the Court asking if the respondent No.2 has ever violated any of the bail conditions imposed upon him by the learned ASJ. Thus, the instant petition being devoid of any merit, is liable to be dismissed.

13. Heard learned counsel appearing on behalf of the parties and perused the material placed on the record.

14. It is observed that the learned ASJ has relied on the fact that the respondent no. 2 has been in police custody since 13th March, 2023 and the submission made by the investigating officer that no further police custody of respondent no. 2 is required, thereby, granting bail to the respondent no. 2.

15. Therefore, the limited question for adjudication before this Court is whether the grounds made in the instant petition satisfies the requirements for the cancellation of the bail.

16. At this juncture, it is pertinent to note that the law on cancellation of the bail is well settled by a catena of judgments delivered by the Hon'ble Supreme Court as well as the High Courts, wherein a set of grounds for cancellation of bail have been laid down.

17. Taking in view of the said judgments, especially the case of ***Dolat***



Ram And Others Vs. State of Haryana, (1995) 1 SCC 349, the grounds for cancellation of bail are encapsulated as follows –

- a. Where there is an interference or an attempt to interfere with the due course of administration of justice;
- b. Where there involves evasion or an attempt to evade the due course of justice;
- c. Where the accused misuses the concession granted by the Court concerned;
- d. Where there involves possibility of absconding;
- e. Whether there is a likelihood or an actual misuse of the bail;
- f. Where there is a likelihood of accused tampering with the evidence and threatening the witnesses;

18. While considering a case of cancellation of bail, it is also to be borne in mind that once the bail is granted to the accused, the same should not be cancelled until and unless the accused misconducted himself or some supervening circumstances warranting such cancellation have occurred.

19. It is the discretionary power of the Court to take into consideration that whether the accused can influence the investigation or trial in accordance with the gravity and seriousness of the offence.

20. In the instant case, the petitioner contended that the respondent no. 2 has tampered with the evidence during the investigation as well as influenced witnesses earlier and that there is a possibility of him doing the same during his bail period. However, upon perusal of the material on record, no sufficient proof with respect to the said contentions have been furnished.

21. Moreover, this Court has taken into account that there is no violation



of terms and conditions of the bail imposed upon respondent no. 2 during his bail period, and that the chargesheet has been filed and the investigation in the case has already been completed by the police. Furthermore, as per the impugned order, the investigating officer submitted that respondent no. 2 is not required for custodial investigation anymore. Additionally, the petitioner failed to answer the query of this Court whether the respondent no. 2 violated any of the bail conditions.

22. Keeping in view that the petitioner has not violated the terms and conditions of bail and in absence of any supervening circumstances arising from the same, this Court does not find any merit in the instant petition and therefore, is not inclined to allow the instant petition for cancellation of bail

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

24. It is made clear that the observations made herein, touching upon the merits of the case, are purely for the purpose of deciding the question of grant of bail, which shall not be construed as an expression of final observations on the merits of the present case.

CHANDRA DHARI SINGH, J

OCTOBER 14, 2024

Dy/mk

[Click here to check corrigendum, if any](#)