



2024:DHC:5366



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 21.05.2024*
Pronounced on: 22.07.2024+ **BAIL APPLN. 1610/2024****RAMESH CHAND JAIN**

..... Petitioner

Through: Mr. Divyendu Sorayan, Mr. Anil
Sharma and Mr. Sankalp Mishra,
Advocates.

versus

CENTRAL BUREAU INVESTIGATION

..... Respondent

Through: Mr. Anurag Ahluwalia and Mr.
Shivam Sachdeva, Advs. for CBI**CORAM:****HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J.**

1. The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in connection with RC No. 003 2024 A 0009 under Section 7 of the Prevention of Corruption Act and Section 120-B IPC registered with CBI/ACB/New Delhi
2. The case of the prosecution is that CBI registered the above RC on 20.03.2024 based on a complaint lodged by one Arun Gupta on 19.03.2024 alleging that one Surender Sharma, JE demanded Rs. 30,000/- from him for carrying out construction in his house.
3. Pursuant to the aforesaid complaint, a trap was laid by the CBI on 20.03.2024 and co-accused Surender Sharma was arrested red handed on the spot on 20.03.2024 while accepting an amount of Rs. 15,000/- from the



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complainant. After the arrest of Surender Sharma, it transpired that he is not JE but a private person. However, he disclosed that he received the bribe amount on behalf of Ramesh Chand Jain (petitioner herein), JE MCD, Narela Zone and another person, namely, Surender Kumar @ Surender Kumar Jangra, Beldar MCD.

4. During the post trap proceedings, the telephonic calls were received by accused Surender Sharma on his Mobile No. 9278678791 from Mobile No. 8700072054 of accused Surender Kumar Jangra asking him to leave the spot after inquiry, if there is any issue.

5. Further, during post trap proceedings, at about 18:07 hours a WhatsApp call from Mobile No. 9717786840 of accused Ramesh Chand Jain (petitioner herein) was received by accused Surender Sharma on his mobile phone and during conversation accused Surender Sharma informed Sh. Ramesh Chand Jain (petitioner) that he had received Rs. 15,000/- from Arun Gupta and after hearing the same, the petitioner told him '*theek hai*' and he also told accused Surender Sharma that he should use word '*kagaz*' or '*15 kagaz*' in place of word '*Rupees*'. Thereafter the petitioner was arrested on 23.03.2024.

6. Learned counsel appearing on behalf of the petitioner submits that the petitioner was not available at his home when the CBI came to his house looking for him as he was attending a function at his sister-in-law's house. However, after returning from the function, the petitioner himself went to the office of CBI on receipt of information where he was arrested on 23.03.2024. He submits that the petitioner was sent to the judicial custody on 24.03.2024 and since then he is incarcerated.



7. He submits that is not the case of the prosecution that there was any demand or acceptance made by the petitioner. Further, no recovery has been made from the petitioner. The offence with which the petitioner has been indicted is punishable with maximum imprisonment of 7 years. The CBI had arrested a person with Rs. 15,000/- who allegedly represented himself as JE of MCD and later on turned out to be a private person.

8. He submits that the petitioner has been implicated in the present case on the disclosure of the said private person who stated that he had received bribe on behalf of the present petitioner. He further submits that the petitioner is an employee of MCD who has an unblemished record of 37 years and is due to superannuate after little more than above four years.

9. He submits that no recovery is required to be made from the petitioner, therefore, his custody is no more required. He further submits that the petitioner has never met the complainant and all other witnesses are also public servants and public witnesses, therefore, there cannot be any apprehension of petitioner threatening the witnesses or tampering with the evidence.

10. He submits that petitioner has a family which includes his wife and two children, therefore, there is no apprehension of petitioner fleeing from justice. It is, therefore, urged by the learned counsel that petitioner may be enlarged on bail.

11. *Per contra*, learned counsel appearing on behalf of the respondent CBI submits that after receiving the bribe amount of Rs. 15,000/-, co-accused Surender Sharma had telephonically informed the petitioner/accused Ramesh Chand Jain about the same and the said conversation was duly recorded by CBI. During such conversation, co-



accused Surender Sharma informed the petitioner that he has received Rs. 15,000/- from Arun Gupta. In response to which the petitioner replied '*theek hai*' and further instructed him not to speak so clearly and rather say '*kagaz*' or '*15 kagaz*'.

12. He submits that the petitioner had given his voice sample in compliance of the order dated 09.04.2024 passed by the learned Special Judge but during the course of taking the voice samples, the petitioner modified his voice.

13. He further submits that the offence is serious in nature and the maximum sentence that can be imposed for the offence is 7 years further, the law also provides for minimum punishment of 3 years for the alleged offence. He, therefore, contends that the bail petition of the petitioner may be dismissed.

14. I have heard the learned counsel for the petitioner, as well as, the learned counsel for the CBI and have perused the record.

15. It is the case of the prosecution itself that in the trap laid by CBI, it is the co-accused Surender Sharma who was caught red handed receiving an amount of Rs. 15,000/- from the complainant Arun Gupta. The co-accused Surender Sharma turned out to be a private person who was pretending to be the JE of MCD.

16. It is not the case of the prosecution that any demand or acceptance of illegal gratification, is on part of the petitioner nor it is the case of the prosecution that any recovery was made from the petitioner. It is also not in dispute that nothing incriminating was found from petitioner's house. Undisputedly, the petitioner had also gone to the office of CBI to join the



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investigation where he was arrested on 23.03.2024. Evidently, it is not a case where the petitioner tried to abscond.

17. In so far as the incriminating material in the form of conversation recorded by the CBI between co-accused Surender Sharma and the present petitioner is concerned, suffice to note that recording of such call was done by the CBI when co-accused Surender Sharma was already in the custody of CBI. In any case, the probative value of such call and the recorded conversation will be considered by the learned trial court at an appropriate stage.

18. Likewise, it also for the learned trial court to consider, based on the report of the FSL, as to whether the voice sample of petitioner which was taken pursuant to the orders of the learned Special Judge matched with his alleged voice in the conversation with Surender Sharma that was recorded by the CBI.

19. In so far as the allegations of voice being modified by the petitioner at the time of taking his voice sample, is concerned the same is also a matter of trial. To be noted that the petitioner is in custody since 23.03.2024, therefore, he was available to the CBI for recording his voice sample yet again in case he had tried to modify his voice during the course of taking sample. It seems that this course has not been adopted by the CBI.

20. As on date, the petitioner has remained in custody for about four months and at this stage there is a presumption of innocence in favour of the petitioner. That apart, no recovery is required to be made from the petitioner nor he is further required for any investigation, therefore, his custody is no more warranted.



21. The petitioner is an employee of MCD and permanent resident of Delhi having a family thus, the petitioner does not seem to be a flight risk. This also becomes evident from the fact that he himself had gone to the office of CBI to join investigation where he was arrested. It is also not the case of the prosecution that the petitioner has any criminal record.

22. Further, the witnesses in the present case are mainly officials, therefore, there is no possibility of the petitioner tampering with the evidence, or extending any kind of threat to them. Even otherwise conditions can be put to allay any kind of apprehension in that behalf.

23. Considering the aforesaid circumstances in entirety, this Court is of the opinion that the present petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on regular bail subject to his furnishing a Personal Bond in the sum of Rs.50,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:

- a) Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- b) The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to the complainant or any of the prosecution witnesses or other persons acquainted with the facts of the case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.
- c) He shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/SHO;



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d) He shall, upon his release, give his mobile number to the concerned IO/SHO on which he could be contacted and he shall not change his mobile number without notifying the same to the IO/SHO.

24. The petition stands disposed of.

25. It is clarified that any observation made herein-in-above is only for the purpose of deciding the present bail application and same shall not be construed as an expression of opinion on the merits of the case.

26. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.

27. Order *dasti* under signatures of the Court Master.

28. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J.

JULY 22, 2024

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