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

+ **BAIL APPLN. 1635/2024**

TOMY@DOMIRAJ

..... Petitioner

Through: **Mr.Pulkit Aggarwal &
Mr.Prashant Kumar, Advs.**

versus

CBI

..... Respondent

Through: **Mr.Anurag Ahluwalia, Adv. for
CBI.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **08.05.2024**

CRL.M.A. 14222/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.(BAIL) 779/2024

2. This application has been filed under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 praying for grant of Anticipatory Bail in FIR No. RC 0482024S0005 under Sections 120B/420/370 of the Indian Penal Code, 1860 registered at Police Station: CBI, SC-1, New Delhi.

3. Prior to the filing of the present application, the applicant had filed an application seeking Anticipatory Bail, being Bail Matter No. 50/2024 titled ***CBI v. Tomy @ Domiraj & Ors.***, which came to be dismissed by the learned Special Judge (PC Act) CBI – 15, Rouse Avenue Courts, New Delhi by order dated 20.04.2024, observing as under:-

“36. The allegations against the applicant/accused are serious in nature, wherein he seems to be the kingpin of the entire human trafficking racket whereby



innocent persons were allured and duped in the garb of providing lucrative incentives/jobs in Russia, and later on were compelled and forced to join the Russian Army and fight against Ukraine on front lines against their wishes, wherein some casualties were also suffered.

37. Further, the conduct of the applicant/accused is also seriously under cloud whereby he seems to have destroyed the crucial evidence/material which was available in his mobile phone, on the pretext of it being damaged and/or stating it to be under repairs.

38. Further, the concession of initial protection given to the applicant by this court also appears to have been misused by him by giving evasive and misleading answers during investigation of the case, in terms of the questions and replies so put to him by the IO, which is reflected from the case diaries.

39. Further, there is also contradictions in the stand taken by the applicant/accused qua the recovery of huge amount of cash from his premises as per the averments of the application and the statements made before the IO.

40. Further, investigation of the case is at initial stage, there are number of persons who are either absconding or evading the process of law, and whose whereabouts are yet to be traced, identity of other persons involved in the case crime is also yet to be ascertained including their specific role amongst others.

41. Further, taking note of the role attributed to him and the conduct so reflected, there are high chances of him tampering the evidence and threatening / influencing the victims/witnesses, who primarily hails from his native place.”

4. In *Siddharam Satlingappa Mhetre vs State Of Maharashtra And Ors.* (2011) 1 SCC 694, the Supreme Court has formulated the



following factors and parameters which can be kept in mind while deciding the question of whether to grant an Anticipatory Bail or not, the same are reproduced hereunder:

“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 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 the 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 overimplication 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.”*

5. In my view, the learned Special Judge, while rejecting the bail application has considered the relevant factors and rightly rejected the Anticipatory Bail of the applicant. Applying the above test, and reaffirming the reasons given by the learned Special Judge, I also find no ground to accede to the request of the applicant for grant of Anticipatory Bail.

6. The application is accordingly dismissed.

NAVIN CHAWLA, J

MAY 8, 2024/rv/am

Click here to check corrigendum, if any