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

\+ BAIL APPLN. 1681/2024 &CRL.M.A. 14611/2024

SHEENA SEBASTIAN ..... Petitioner

Through: Mr Abid Ali Beeran P., Mr Atul Kumar and Mr Aatrayi Das, Advocates.

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr Raghvinder Varma, APP for the State with SI Narendra Kumar, PS Mehrauli.
Ms Pratiti Rungta, Mr Vineet Kumar, Ms Harshita Gulati, Mr Sumit Purgal and Mr Anurag Malik, Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **28.05.2024**

1. The present petition has been filed under Section 438 CrPC seeking anticipatory bail in connection with FIR No.0231/2024 under Section 381 IPC registered at PS Mehrauli.

2. The case of the prosecution in brief is that on 29.03.2024, the complainant made a written complaint at Police Station Mehrauli, Delhi regarding theft in the premises ‘Akash Ganga’, 9, Oak Drive, DLF Chhatarpur Farms, Chhatarpur, Delhi.

3. The complainant is the Manager of the above said premises owned by Menon family and looks after the working and other duties of the staff employed there.

4. The complainant in his complaint has stated that one of the attendants, namely, Shakuntala, who takes care of the members of the Menon family, informed him on 28.03.2024 at about 7:30 PM that she was anticipating that certain items/valuables belonging to the family members were missing from the locker/storeroom. After the primary inspection, it was found that jewellery, including gold bangles, 1 pair solitaire earrings, diamond long earrings set, 1 diamond bracelet, 2 gold necklace, 1 platinum diamond kada, 4 gold kadas (approximately), cash approximately Rs.4 lakhs and certain important documents including title deeds of some properties were missing from the farm house. He further stated that Mrs Sheena Sebastian, the present petitioner, who was working as nurse/night attendant for the members of the Menon family for the past 11 years has stolen the aforementioned items when all the members of the family were asleep. She hurriedly left with 3 bags (1 suitcase and 2 handbags) without informing anyone at the house, telling only the security guards at the main entrance that her mother-in-law is unwell and she has to rush to her hometown in Kerala.

5. Learned counsel for the petitioner submits that the FIR has been registered after a delay of 24 hours and that too on the basis of an information provided by the attendant and no notice under Section 41A of the IPC was given to the petitioner. He further submits that the petitioner is a woman and her husband has already been arrested. The petitioner is the only bread earner of the house. He submits that the petitioner undertakes to join the investigation.

6. *Per contra*, learned APP for the State has argued on the lines of the status report. He submits that the recovery of the stolen jewellery and cash is yet to be made from the present petitioner.

7. Learned counsel for the complainant invites the attention of the Court to the status report to contend that cash amount of approximately Rs.1 crores and gold jewellery has been stolen by the petitioner with the help of her husband Rojar John and a recovery of cash amount to the extent of Rs.1,09,50,000/- has already been made from the office of the Reji Mathew, one of the friends of co-accused Rojar John. However, the recovery of jewellery and cash is not yet complete, therefore, the custodial interrogation of the petitioner is required.

8. She further invites the attention of the Court to the order dated 25.04.2024 wherein the statement of the IO to the effect that notice under Section 41A CrPC was tried to be served upon the petitioner but she was not found present at her address has been taken on record by the court.

9. Likewise, reference has also been made by her to the reply dated 01.05.2024 filed by the IO before the learned Trial Court, to contend that notice under Section 41A CrPC was sent to the petitioner but her mobile phone was switched off hence, neither she joined investigation nor replied in this regard.

10. She submits that NBWs have also been issued against the petitioner by the learned Metropolitan Magistrate, Saket on 03.05.2024. She also refers to the status report filed by the State to contend that investigation has revealed that the petitioner is a habitual offender and it was found that number of transactions have been entered into by the petitioner with Muthoot Finance. A reply to the notice from Muthoot Finance revealed that the petitioner has

pledged approximately 550 gm. gold (total 33 articles of gold) as security and she has availed loan of Rs.23,48,500/- against the said gold ornaments. She submits that it is also in the status report that investigation has revealed that the petitioner has multiple bank accounts as per her Yes Bank statement which shows that she had received top up amount from Muthoot Finance and on the same day she had transferred money to different accounts.

11. I have heard the learned counsel for the petitioner, learned APP for the State, as well as, the learned counsel for the complainant.

12. From perusal of the FIR, it appears that the petitioner was working as house help, as well as, nurse/night attendant at the residence of Menon family for the past 11 years. The allegations against her are to the extent that she along with her husband had stolen more than Rs.1 crore and various jewellery articles.

13. The investigation has also revealed that she has pledged 33 gold articles weighing 550 gm. with Muthoot Finance and has raised loan to the extent of Rs.23,48,500/-. Subsequently, top up loan has also been received by the petitioner, which was transferred by her to different bank accounts on the same day. The possibility of involvement of other persons in the commission of offence cannot be ruled out which could be unearthed only during the custodial interrogation of the petitioner.

14. Though the recovery of cash to the extent of Rs.1,09,50,000/- has been made at the instance of the petitioner's husband but there are still jewellery articles and further cash amount which is yet to be recovered, for which custodial interrogation is warranted.

15. Further, the transaction from Muthoot Finance in petitioner's account also needs to be verified. The learned APP for the State has also expressed

an apprehension that since the petitioner is a permanent resident of Kerala, she is likely to abscond. Notice under Section 41A CrPC was tried to be served upon the petitioner but her mobile was switched off. NBWs have also been issued against the petitioner.

16. In view of the aforesaid facts and circumstances, no ground of anticipatory bail to the petitioner is made out. Accordingly, the petition is dismissed. All the pending applications are disposed of.

VIKAS MAHAJAN, J

MAY 28, 2024
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