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

+ **BAIL APPLN. 3071/2020**

REKHA & ANR.

..... Applicants

Through: **Mr. Narender Tomar,**
Advocate

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: **Mr. Pradeep Gahlot, APP**
for the State with SI Vinod
Kumar, PS GK-I.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

07.02.2024

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1. The present application is filed by the applicants under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973, seeking grant of pre-arrest bail in FIR No. 202/2019, dated 16.10.2019, for the offences under Sections 420/406/120B/468/471 of the Indian Penal Code, 1860, registered at Police Station Greater Kailash.

2. It is alleged that the applicants, along with the other co-accused persons, had induced the complainant to invest in their Partnership Firm 'M/s. Kapura Wines', and taken a loan of approximately ₹1.07 crores from the complainant, on the basis of certain forged documents. Some of the loan amount was repaid, however, the balance dues were not cleared, which led to filing of a complaint and consequently the present FIR. Applicant No. 1 is the wife of the co-accused Ramesh Kapura, and Applicant No. 2 is his sister.

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3. The learned counsel for the applicants submits that Applicant No.2 was not a partner in the concerned partnership firm and Applicant No.1 was merely a sleeping partner in the same. He further submits that the amount was taken by co-accused persons, and the applicants have been assigned no specific role in the said FIR.
4. It is pointed out that the co-accused Sanjay has been granted bail by the learned Trial Court by the order dated 24.12.2021. It is also pointed out that the co-accused Ramesh Kapura was arrested on 16.02.2020, and has also been admitted on bail by the learned Trial Court by the order dated 07.06.2022.
5. Notice in the present application was issued on 13.10.2020. It was also directed that no coercive steps be taken against the applicants, subject to the applicants joining investigation as and when required by the investigating Officer.
6. The learned Additional Public Prosecutor submits that the supplementary chargesheet has also been filed in the present case, where Applicant No. 2 has been kept in column No. 12.
7. The Hon'ble Apex Court in the case of ***Mohd. Asfak Alam v. State of Jharkhand : (2023) 8 SCC 632*** has observed as under:

“15. What appears from the record is that the appellant cooperated with the investigation both before 8-8-2022, when no protection was granted to him and after 8-8-2022, when he enjoyed protection till the filing of the charge-sheet and the cognizance thereof on 1-10-2022. Thus, once the charge-sheet was filed and there was no impediment, at least on the part of the accused, the court having regard to the nature of the offences, the allegations and the maximum sentence of the offences they were likely to carry, ought to have granted the bail as a matter of course. However, the court did not do so but mechanically rejected and, virtually, to rub salt in the wound directed the appellant to surrender and seek regular



bail before the trial court. Therefore, in the opinion of this Court, the High Court fell into error in adopting such a casual approach.

16. The impugned order of rejecting the bail and directing the appellant, to surrender and later seek bail, therefore, cannot stand, and is hereby set aside. Before parting, the Court would direct all the courts seized of proceedings to strictly follow the law laid down in Arnesh Kumar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449 : (2014) 8 SCR 128] and reiterate the directions contained thereunder, as well as other directions.”

8. Thus, considering the fact that the chargesheet and supplementary chargesheet have already been filed, and moreover, the co-accused persons have already been released on bail, this Court is of the opinion that custodial interrogation of the applicants is not required.

9. In view of the above, the applicants are admitted on bail on furnishing a personal bond of ₹50,000/- with one surety of the like amount respectively, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicants shall join and cooperate with the further investigation as and when directed by the IO;
- b. The applicants will not leave the boundaries of the National Capital Region without informing the IO/ SHO concerned;
- c. The applicants shall not contact the complainant / witnesses or tamper with the evidence in any manner;
- d. The applicants shall give their mobile numbers to the concerned IO/SHO and shall keep their mobile phones switched on at all times.



10. 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.

11. The bail application is allowed in the aforesaid terms.

12. It is clarified that the observations made in the present case are only for the purpose of considering the 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.

AMIT MAHAJAN, J

FEBRUARY 7, 2024

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