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

+ **BAIL APPLN. 1757/2024**

AKHILESH MISHRA

..... Petitioner

Through: Mr. K.K. Manan, Senior Advocate
with Ms. Udit Bali, Mr. Karnanya
Singh Choudhary and Mr. Lavish
Chandra, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Manoj Pant, APP for the State
with Mr. Sanjay Pal, Ms. Shweta
Shandilya and Mr. Ashok Kumar
Shukla, Advocates
SI Nitin Singh, ARSC/Crime Branch

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

27.05.2024

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1. The instant application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 has been filed on behalf of the applicant seeking regular bail in FIR bearing No. 0264/2022, registered at Police Station Crime Branch, for offences punishable under Sections 170/387/389/465/471/120-B/34 of the Indian Penal Code, 1860 ('IPC').
2. Brief facts of the case are that the present FIR was registered at P.S. Crime Branch, Delhi on the complaint of Sh. Vipul Kaushik, which he had filed on behalf of Sh. Hardev Singh SB, who is the Industrial Unit President of Nippon Paint India Ltd. having its office in Mumbai and Vipul Kaushik



is the channel partner of the company. In the complaint, Sh. Hardev Singh had alleged that on 08.11.2022, he had received two separate notices of Enforcement Directorate on his WhatsApp, one for his appearance and another for his colleague Kumar Hakim (who is the Director of procurement in the factory situated at Nippon Paint India - Mumbai), directing Hardev Singh and Kumar Hakim to appear before Enforcement Directorate officer Manoj Kumar Teekla in his office in Delhi on 14.11.2022. On 10.11.2022, the same notices had also been received by them via speed post. Hardev Singh had further alleged that on 05.11.2022, before receiving the said notice of the Enforcement Directorate, one Akhilesh Mishra (who is the supplier of solvents on commission basis in Nippon Paint India) had called Kumar Hakim and had told him that a big trouble was about to come over Hardev Singh however, he could help him to get rid of that trouble with the help of his contacts in Ministries. On 08.11.2022, Akhilesh Mishra had again called Kumar Hakim and confirmed about the trouble. On 10.11.2022, Hardev Singh had asked Kumar Hakim to meet Akhilesh Mishra in this regard. Thereafter, Kumar Hakim had met Akhilesh Mishra, who had demanded Rs. 2-3 crores to settle the matter and had also asked Kumar Hakim to arrange a meeting with Hardev Singh. On 11.11.2022, Hardev Singh had informed Enforcement Directorate, Delhi about the said notices through his friend Vipul Kaushik, and from the office of Enforcement Directorate, Delhi, Hardev Singh had come to know that the said notices were fake. Accordingly, to catch the culprits red-handed, Hardev Singh had kept his conversation going on with Akhilesh Mishra and Darshan Harish Joshi (who is the buyer of mix solvents from Nippon Paint Ltd., Mumbai) to



settle the matter. Akhilesh Mishra and Darshan Harish Joshi had told Hardev Singh that they have to visit Delhi to manage the matter at a higher level in the department, for which Hardev Singh has to bear their expenses and thus, Hardev Singh had arranged their flight tickets from Mumbai to Delhi and had also booked a room in Hotel The Ashok in Delhi.

3. On 14.11.2022, the Enforcement Directorate, New Delhi, had informed Crime Branch, Delhi that some individuals were attempting to extort money from a person, who lives in Mumbai, under the guise of being Enforcement Directorate officials. Thereafter, a raid was conducted at Hotel the Ashok, Chankyapuri, Delhi by Crime Branch, Delhi along with the officials of ED and a representative of the complainant i.e. Sh. Vipul Kaushik. During the raid, the accused persons Akhilesh Mishra, Darshan Harish Joshi, Vinod Kumar Patel, Dharmender Kumar Giri and Naresh Mahto were arrested. During the investigation, it was revealed that a person had arrived at the Ashok Hotel in a Ciaz car on which "Government of India" had been written. Accused Akhilesh Mishra, Darshan Harish Joshi, and Vinod Kumar had introduced him to Vipul Kaushik as the official of the Enforcement Directorate. The said person had impersonated himself as an officer of the Enforcement Directorate and had threatened the complainant to settle the matter or else he would get an arrest warrant issued against Hardev Singh. The accused persons had also disclosed that the said fake ED officer and other accused persons were present at Gole Market, Delhi. A raid was conducted near Gole Market, Delhi, and accused persons namely Devender Kumar Dubey (who had impersonated himself as an ED officer), Asrar Ali and Vishnu Prasad were arrested. It was also revealed that one Gajendra @ Guddu had driven the Maruti Ciaz car to the



Ashok Hotel with fake ED official i.e. Devender Dubey. Thereafter, Gajendra @ Guddu was arrested and the said Maruti Ciaz car bearing registration number HR 51 CG 8834, on which "Government of India" was written was also recovered and seized in the present case. On 15.11.2022, during the investigation, complainant Vipul Kaushik had further revealed that on 14.11.2022, after meeting with the fake ED official at the Ashok Hotel, Delhi, Akhilesh Mishra had threatened to kill him and Hardev Singh, if they did not pay the money. On the basis of this additional information, Section 387 of IPC was added in the present case. On 18.11.2022, during further investigation, accused Arun Kumar Singh was also arrested in the present case on the basis of disclosure statements made by the accused persons and Call Detail Records (CDR). During the investigation, call recordings were found in the mobile phone of Akhilesh Mishra, which revealed the active participation of Darshan Harish Joshi in this conspiracy.

4. After concluding investigation, charge-sheet was filed on 14.01.2023. The FSL report/result regarding the CCTV footage and mobile phones of the accused persons is still awaited.

5. Learned Senior Counsel for the applicant Akhilesh Mishra submits that the applicant is in judicial custody without trial since 14.11.2022 and his custody is no more required. It is stated that the cognizance in the present case was taken on 27.02.2023 by the learned CMM, and till date there has been no progress before the learned Trial Court. It is stated that no *prima facie* case is made out against the present applicant and there is no cogent evidence against him and he has been falsely implicated in the present case and has not committed any offence. It is stated that applicant had filed an application under Section 439 of Cr.P.C seeking regular bail



before the learned Trial Court, however the same was dismissed *vide* order dated 13.05.2024, merely on the ground that this Court *vide* order dated 19.03.2024 had dismissed the bail application of the applicant. It is stated that six co-accused persons in the present case including co-accused Darshan Joshi have already been granted bail and therefore, the present applicant is entitled to bail on the grounds of parity.

6. Learned APP for the State, on the other hand, states that the allegations against the applicant are serious in nature and he is the main accused in the present case. However, it is also submitted that co-accused Darshan Joshi, whose role is similar to a large extent with the present applicant, has now been enlarged on regular bail by the learned Trial Court.

7. This Court has heard arguments addressed by learned Senior Counsel for the applicant as well as learned APP of the State, and has perused the material available on record.

8. In the present case, this Court *vide* order dated 19.03.2024, while dismissing the last bail application of the applicant herein, had directed as under:

“14. In such circumstances, it is directed that the Investigating Officer shall take immediate and effective steps, including writing priority letters to the Director, FSL, for ensuring that the FSL report regarding CCTV footage etc. is received within a period of one month and the voice samples of the accused persons are taken and analysed at the earliest. Copy of this order shall also be placed by the IO before the Director, FSL, who shall ensure that necessary samples are obtained and reports are prepared expeditiously in the present case.”

9. A perusal of record and the Status Report reveals that the FSL report *qua* the CCTV footage etc. has yet not been received by the investigating



officer, due to which the arguments on charge have not commenced.

10. In the present case, this Court is of the opinion that the applicant Akhilesh Mishra has been in judicial custody since 14.11.2022, except for the period when he was released on interim bail on medical grounds. Except one offence i.e. the one punishable under Section 387 of IPC, all other offences are bailable in nature. The allegations against the applicant are to be proved during the course of trial and since he has already undergone substantial period of custody, no purpose would be served by keeping him in further incarceration. Furthermore, co-accused Darshan Harish Joshi has already been granted bail by the learned Trial Court, whose role is also similar to the present applicant.

11. Therefore, considering the aforesaid facts and circumstances, this Court is inclined to grant regular bail to the present accused/applicant, on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court/Successor Court/Link Court/Duty Judge concerned, on following terms and conditions:

- i) The applicant shall not leave the country without prior permission of the concerned Court;
- ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner;
- iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court as well as IO.

12. Accordingly, the present application stands disposed of.

13. Nothing expressed hereinabove shall tantamount to an expression of



opinion on the merits of the case.

14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 27, 2024/ns

Click here to check corrigendum, if any