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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2089/2020**
LIPIKA SUDPetitioner
Through: Mr.Mohd. Umar, Advocate

versus

STATE NCT OF DELHIRespondent
Through: Mr. Shoaib Haider, APP for State with
Insp.Sarvesh
Mr.Dhruva, Advocate for respondent No.2

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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26.11.2024

1. By way of present petition, the petitioner seeks cancellation of bail granted to respondent No.2 vide order dated 03.02.2020 passed by the learned Additional Sessions Court, Saket Courts, Delhi, in FIR No.284/2015 registered under Sections 420/467/468/471 IPC at P.S. Chitranjan Park, Delhi.
2. A perusal of the petition would show that the petitioner, being the complainant, is the wife of respondent No.2 and has alleged that respondent No.2, after being inducted into her company as a Director, has siphoned off the funds and has also forged signatures and opened various forged joint bank accounts. It is further alleged that respondent No.2 has forged the Will of his own mother and absorbed the properties.
3. Insofar as the latter allegation is concerned, it is noted that the allegations are with respect to the forgery of Will of his own mother by respondent No.2, in regard to which learned counsel for respondent No.2



submits that though the petitioner has set up a parallel Will and has also filed a Testamentary Case, the attesting witness in the said Will has already turned hostile and the matter is at the stage of final arguments. Insofar as the first set of allegations are concerned, it has been stated that throughout, the petitioner was aware of the said bank accounts inasmuch as she has used them in making statutory payments, sale transactions for a property in Goa as well as other payments towards mobile phones etc. It is further stated that the bank account opening form was also attested by the Sales Executive, Branch Sales Manager and countersigned by the Regional Manager.

4. Learned APP for the State submits that the account opening form was sent to FSL for opinion of the handwriting expert and as per the report received, it has been opined that the alleged signatures on those forms are neither of the petitioner nor of respondent No.2.

5. I have heard learned counsels for the parties as well as learned APP for the State and have also gone through the material placed on record including the impugned order.

6. It is pertinent to note that the impugned order dates back 03.02.2020 and after investigation, the chargesheet already stands filed and the matter is pending at the stage of arguments on charge. It is also apposite to note that bail once granted need not be lightly interfered with.

7. In Prasanta Kumar Sarkar v. Ashis Chatterjee, reported as (2010) 14 SCC 496, the Supreme Court observed:

'9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a



plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*
- (iv) danger of the accused absconding or fleeing, if released on bail;*
- (v) character, behaviour, means, position and standing of the accused;*
- (vi) likelihood of the offence being repeated;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger, of course, of justice being thwarted by grant of bail.'*

8. The scope and powers of the Court while considering a challenge to the bail granted are well delineated in Puran v. Rambilas, reported as **(2001) 6 SCC 338**:

“10.It has been held that generally speaking the grounds for cancellation of bail broadly are interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. It is, however, to be noted that this Court has clarified that these instances are merely illustrative and not exhaustive. One such ground for cancellation of bail would be where ignoring material and evidence on record a perverse order granting bail is passed in a heinous crime of this nature and that too without giving any reasons. Such an order would be against principles of law. Interest of justice would also require that such a perverse order be set aside and bail be cancelled. It must be remembered that such offences are on the rise and have a very serious impact on the society. Therefore, an arbitrary and wrong exercise of discretion by the trial court has to be corrected.”



9. Further, in regard to the Court's power in assessing the correctness of an order granting bail and the Court's power while considering an application for cancellation of bail, the Supreme Court has observed in Mahipal v. Rajesh Kumar alias Polia, reported as **(2020) 2 SCC 118**, as under:

'16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted...'

10. The principles governing challenge to grant of bail were reiterated by the Supreme Court in Ajwar v. Waseem, reported as **2024 SCC OnLine SC 974**, and the same are reproduced hereinunder:

'27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior Court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior Court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order...'



11. Recently, Supreme Court in Manik Madhukar Sarve and Others v. Vitthal Damuji Meher and Others, reported as **2024 SCC OnLine SC 2271**, observed as follows:

‘29. In Jagjeet Singh (supra)¹¹, a three-Judges bench of this Court, has observed that the power to grant bail under Section 439 Cr. P.C. is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not unfettered. The order passed must reflect due application of judicial mind following well established principles of law. In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate Court would be well within its power to set aside and cancel the bail...’

12. Considering the totality of the facts and circumstances, including the nature of allegations and the detailed impugned order as well as the above-noted legal position, I find no ground to entertain the present petition. Accordingly, the same is dismissed.

MANOJ KUMAR OHRI, J

NOVEMBER 26, 2024

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