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

+ BAIL APPLN. 1884/2019

USHA DUA

.....Petitioner

Through: Mr.Sanjay Abbot, Mr.Samarth Krishan  
Luthra & Ms.Sanjana Mishra, Advocates

versus

STATE

.....Respondent

Through: Mr.Yasir Rauf Ansari, ASC for State  
with SI Maya Shanker

Mr.Pramod Kumar Dubey, Sr. Advocate with  
Mr.Sarthak Karol, Ms.Neelakshi Bhadauria and  
Mr.Amit Khanna, Advocates for complainant

+ BAIL APPLN. 1886/2019

HEENA DUA

.....Petitioner

Through: Mr.Sanjay Abbot, Mr.Samarth Krishan  
Luthra & Ms.Sanjana Mishra, Advocates

versus

STATE

.....Respondent

Through: Mr.Yasir Rauf Ansari, ASC for State  
with SI Maya Shanker

Mr.Pramod Kumar Dubey, Sr. Advocate with  
Mr.Sarthak Karol, Ms.Neelakshi Bhadauria and  
Mr.Amit Khanna, Advocates for complainant

+ BAIL APPLN. 1997/2019

NEERAJ DUA

.....Petitioner

Through: Mr.Sanjay Abbot, Mr.Samarth Krishan  
Luthra & Ms.Sanjana Mishra, Advocates

versus

STATE

.....Respondent

Through: Mr.Yasir Rauf Ansari, ASC for State  
with SI Maya Shanker

Mr.Pramod Kumar Dubey, Sr. Advocate with  
Mr.Sarthak Karol, Ms.Neelakshi Bhadauria and  
Mr.Amit Khanna, Advocates for complainant



+ BAIL APPLN. 1999/2019  
VARUN DUA

.....Petitioner

Through: Mr.Sanjay Abbot, Mr.Samarth Krishan  
Luthra & Ms.Sanjana Mishra, Advocates  
versus

STATE

.....Respondent

Through: Mr.Yasir Rauf Ansari, ASC for State  
with SI Maya Shanker  
Mr.Pramod Kumar Dubey, Sr. Advocate with  
Mr.Sarthak Karol, Ms.Neelakshi Bhadauria and  
Mr.Amit Khanna, Advocates for complainant

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

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**28.11.2024**

**CRL.M.A. 23518/2024 in BAIL APPLN. 1884/2019 (delay),**  
**CRL.M.A. 23517/2024 in BAIL APPLN. 1886/2019 (delay),**  
**CRL.M.A. 23519/2024 in BAIL APPLN. 1997/2019 (delay) and**  
**CRL.M.A. 23464/2024 in BAIL APPLN. 1999/2019 (delay)**

1. By way of present applications, the applicant/complainant seeks condonation of delay of 20 days in filing the rejoinder.
2. For the reasons stated in the application, the same is allowed and the delay of 20 days in filing the rejoinder is condoned.
3. In view of the above, the applications are disposed of.

**BAIL APPLN. 1884/2019 and CRL.M.A. 16321/2024,**  
**BAIL APPLN. 1886/2019 and CRL.M.A. 16336/2024,**  
**BAIL APPLN. 1997/2019 and CRL.M.A. 16416/2024 and**  
**BAIL APPLN. 1999/2019 and CRL.M.A. 16323/2024**



1. By way of present applications, the applicants seek anticipatory bail in FIR No.116/2019 registered under Sections 406/34 IPC at P.S. Preet Vihar, Delhi.
2. Learned for the applicants submits that the FIR in the present case was registered on 17.07.2019 with the allegation that the complainant had handed over three cars owned by him to the applicants however, one of it was illegally retained by the applicants. When he asked for return of the said car, not only was the said car not returned, but the complainant was also threatened with dire consequences. It is stated that on further enquiry, he came to know that the applicants have absconded and were not available at their home.
3. The bail applications of Usha Dua and Heena Dua came to be listed for the first time on 01.08.2019, when the following order was passed:-

*“This is an application filed under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.116/2019, under Sections 406/34 IPC registered at Police Station-Preet Vihar.*

*Learned counsel for the petitioner has submitted that the petitioner is apprehending her arrest from Police Station-Preet Vihar in case FIR No.116/2019, under Sections 406/34 IPC. He further submits that the allegations alleged against the petitioner in the FIR are false. He further submits that the car in question has already been recovered and the petitioner is ready to join investigation and prays that the petitioner be granted anticipatory bail.*

*Learned APP seeks time to file status report.*

*Keeping in view the facts and circumstances, the petitioner is directed to join the investigation and in the event of her arrest she be released on anticipatory bail in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of IO/SHO concerned till the next date with the condition that she shall not contact, threaten or coerce the victim or any of family members*



*of the victim during this period or indulge in any illegal activities and she should not leave India.*

*Till the next date, status report be called.*

*Renotify on 14th August, 2019.*

*As prayed, copy of this order be given dasti under the signatures of the Court Master”*

The other applicants i.e., Neeraj Dua and Varun Dua also were granted interim protection on 14.08.2019.

4. While learned counsel for the applicants would urge that the applicants joined and cooperated in the investigation, the complainant, on the other hand, preferred an application in the year 2024 seeking cancellation of the interim protection on the premise that the applicants have further induced the complainant in giving of loan by mortgaging a property which was already mortgaged. The cancellation is also sought on the ground subsequently, the complainant was threatened and beaten by the applicants Neeraj and Varun. It is further contended that the applicants have indulged in similar acts with third persons and for which complaints have been lodged against them.

5. Learned ASC for the State submits that though at the time of initial FIR, the allegations pertain to non-return of a jaguar car, subsequently a supplementary statement of the complainant was recorded and the allegations pertaining to the aforesaid mortgage were included by adding Section 420 IPC. He submits that as on date, the FIR is pending investigation under Section 406/420/34 IPC.

6. In rejoinder, learned counsel for the applicants refuted the complainant's contentions and also challenged the genuineness of the loan agreement statedly executed at the time of alleged mortgage. It is contended



that though the said agreement is shown to be executed on 21.09.2017, the e-stamp paper is dated 10.10.2017. Another contention raised is that though loan agreement mentions that the loan was disbursed in cash, however, the same also mentions cheque numbers.

7. I have heard learned counsels for the parties as well as learned APP for the State and have also perused the material placed on record.

8. The first set of allegations against the applicants pertain to non-return of the jaguar car. Indisputably, the said car stands recovered.

The next set of allegations pertain to mortgage of a property vide Settlement Agreement dated 18.07.2019 between the applicant/*Usha Dua* and the complainant in the context of property bearing *No.IX/2122A, Gali No.8, Kailash Nagar, Gandhi Nagar, Delhi*. The complainant alleges that by inducing the complainant, the applicant/*Usha Dua* has obtained a loan of Rs.5,01,00,000/- without disclosing that the said property was already mortgaged with Tata Capital Finance Services. Learned counsel for the applicants would urge that while on the one hand, the complainant in the subject FIR registered on 17.07.2019 would complain that when he approached the applicants' house they were not found residing and absconding but the Settlement Agreement is claimed to be executed on the very next day i.e. 18.07.2019. Concededly, no civil proceedings have been initiated with respect to recovery of the alleged loan. As noted above, the Settlement Agreement was statedly executed after registration of the FIR.

The subsequent set of allegations pertain to threat and beatings given to the complainant. In this regard, reference has been made to FIR No.22/2021 registered under Sections 323/352/504/506 in which it was alleged that the complainant and his friend were beaten by the applicants/



*Neeraj Dua* and *Varun Dua*. Later, Section 308 IPC was added. The applicants have been granted bail on 21.05.2024 by the concerned court in Gautam Buddha Nagar. It is stated that complainant has instituted cancellation and the same is pending.

The next is a complaint dated 06.03.2021 given to S.H.O., P.S. Anand Vihar. Learned ASC for the State, on instructions, submits that the complaint stands filed. Another complaint was given to S.H.O., P.S. Preet Vihar on 29.03.2024. A reading of the same would show that no specific details have been mentioned.

9. The next set of allegations pertain to complaints that were filed by *Deepak Arora*, *Deepak* and *Gaurav Gupta*. The complaint by *Deepak Arora* was filed with respect to inducement for purchase of the same jaguar car. The dispute is stated to be settled. The complaint filed by *Deepak* is under Section 138 NI Act. The complaint filed by *Gaurav Gupta* is against the applicants/ *Heena Dua* and *Varun Dua* in which applicant/ *Heena Dua* has been released on regular bail while the applicant/*Varun Dua* is still in custody in FIR No.367/2024 registered under Sections 406/420/34 at P.S. Shahdara.

10. Insofar the present FIR is concerned, learned ASC for the State, on instructions from S.I. Maya Shanker, submits that the applicants have joined the investigations and no custodial interrogation is required at this stage.

11. Coming to the factum of whether the interim bail needs to be recalled, it is deemed apposite by this Court to refer to the case of Ajwar v. Waseem, reported as **2024 SCC OnLine SC 974**, wherein the principles governing challenge to grant of bail were discussed by the Supreme Court 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...’*

To a similar extent, the observations in Manik Madhukar Sarve and Others v. Vitthal Damuji Meher and Others, reported as **2024 SCC OnLine SC 2271**.

12. In light of the above-noted principles and after perusing the material available on record, this Court does not find any infirmity or perversity in the orders granting interim protection to the applicants.

13. After carefully perusing the subsequent complaints/FIR lodged at the instance of complainant, it is pertinent to note that the applicants accused therein are either on bail or the complaints have been filed or non-specific. The I.O. does not seek custodial interrogation. Keeping in view the aforesaid facts and circumstances, without commenting further on the merits of the case, and considering that the applicants have already joined the investigation, the interim protection granted to the applicants vide orders dated 01.08.2019 and 14.08.2019 are made absolute and it is directed that in the event of arrest, the applicants be released on bail subject to their furnishing a personal bond in the sum of ₹50,000/- with one surety each of like amount to the satisfaction of the Arresting Officer/Investigating



Officer/SHO of the concerned Police Station and also subject to the following further conditions:-

- (i) At the time of furnishing bail bonds, the applicants shall provide the mobile number, which they undertake to keep operational at all times during the pendency of the trial.
- (ii) The applicants shall join the investigation as and when asked.
- (iii) In case of change of residential addresses/contact details, the applicants shall promptly inform the same to the concerned Investigating Officer/SHO.
- (iv) The applicants shall not directly or indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- (v) The applicants shall regularly appear before the trial Court.

14. The applications are disposed of in the above terms alongwith the pending applications.

15. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

**MANOJ KUMAR OHRI, J**

**NOVEMBER 28, 2024**

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