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

+ **CRL.M.C. 4565/2024 & CRL. M. A. 17171/2024**

ARPANA JOSHI

.....Petitioner

Through: Mr. Anil Goel and Mr. Aditya Goel,
Advocates (Through VC).

versus

STATE/N.C.T. OF DELHI & ANR.

.....Respondents

Through: Ms. Richa Dhawan, APP for the State
along with SI Dharm Singh, PS-
Hauz Khas.

Appearance not given on behalf of
the R-2.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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06.11.2024

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) seeking setting aside of the impugned order dated 23rd April, 2024 passed in Bail Matters No. 289/2024 in FIR No. 439/2023 registered at Police Station - Hauz Khas, Delhi for offences punishable under Sections 406/418/420/467/468/471 of the Indian Penal Code, 1860, by the learned ASJ-03 (South), Saket Courts, New Delhi.

2. Learned counsel appearing on behalf of the petitioner/complainant submitted the respondent no. 2 is the wife of the main accused namely Mr. Jitender Negi and is one of the Directors of the company namely M/s Rigel



Marine Services Pvt. Ltd. (which plays a crucial role in the present FIR) and she is having common intention, and acted in active connivance with her husband in all the offences of forgery and cheating committed against the petitioner.

3. It is submitted the husband of the respondent no. 2 filed first anticipatory bail application which was rejected *vide* order dated 27th January, 2024 pursuant to which a notice under Section 41A was issued on 1st February, 2024. In compliance of the said notice, the respondent no. 2 as well as her husband appeared before the Investigating Officer (“IO” hereinafter) on 5th February, 2024.

4. It is submitted that subsequent to the above, the husband of the respondent no. 2 moved another bail application bearing Reg No. 225/2024 which was vehemently opposed by the learned counsel appearing on behalf of the State before the Court concerned.

5. It is further submitted that the said bail application was opposed by the State on the ground that there is no change of circumstances after the dismissal of the first bail application, therefore, the same is liable to be rejected.

6. It is submitted that while granting the anticipatory bail to the husband of the respondent no. 2 *vide* order dated 21st February, 2024, the Court concerned has ignored the relevant facts of the case. *Firstly*, there are serious allegations against the accused and the first anticipatory bail application was dismissed after considering the gravity of the offences and the material on record. *Secondly*, the second anticipatory bail application was filed without disclosing the facts or bringing on record any propositions to show as to how there is any change of circumstances and the same was



pointed out by the learned counsel appearing on behalf of the State before the Court concerned.

7. It is submitted that while granting anticipatory bail to the respondent no. 2 herein, the learned Court below failed to appreciate her misconduct that she had filed a false and fabricated ledger account to secure the anticipatory bail in which Rs. 5 Lakhs have been shown to allegedly be paid to the petitioner's husband and the same is false and misconceived.

8. It is submitted that it is a settled law that the graver the offences, the chances of the accused making himself unavailable or scarce by absconding or by delaying collection of evidence or by threatening witnesses or scaring them away are more. The present case is a case of bank fraud and one of the offences is Section 467 of the Indian Penal Code, 1860 which is punishable up to life imprisonment. Hence there is all the reasonable apprehension that the respondent no. 2 will flee from justice.

9. It is submitted that the learned Court below has failed to consider the settled legal principles applicable for grant of anticipatory bail as per which the nature, gravity and seriousness of offences, likelihood of the witness being intimidated, tampering with the evidence, the conduct of the accused, likelihood of the offences being repeated, reasonable apprehension of the witnesses being influenced, danger of justice being thwarted has to be considered while granting anticipatory bail. Further, enlarging the respondent no. 2 on anticipatory bail is prejudicial to the safety of the petitioner and her family as there is reasonable apprehension that she would abscond and not participate in the trial. Therefore, the impugned order may be set aside and the instant petition be allowed.

10. *Per contra*, the learned counsel appearing on behalf of the respondent



no. 2 has vehemently opposed the instant petition submitting to the effect that after dismissal of the first anticipatory bail application on 27th January, 2024, the notice under Section 41A was issued to the respondent no. 2 and her husband pursuant to which she appeared before the IO, joined the investigation and cooperated with the investigation as per the satisfaction of the IO.

11. It is submitted that after joining the investigation and cooperation of the respondent no. 2, the IO was satisfied as all the relevant documents required by him were submitted by the respondent no. 2 Further, the chargesheet has already been filed after completion of the investigation.

12. It is submitted that now the respondent no. 2 is cooperating with the IO and also undertakes to cooperate with the IO in further investigation as required and she shall appear before the IO/Court concerned as and when required. Therefore, it is prayed that in view of the foregoing submissions, the instant petition may be dismissed being devoid of any merits.

13. Thereafter, learned APP appearing on behalf of the State submitted that the respondent no. 2 is cooperating with the IO and the chargesheet has been filed after completion of the investigation. It is also informed to this Court that the investigating agency is going to file a supplementary chargesheet after getting the FSL report.

14. Heard learned counsel appearing on behalf of the parties and perused the record.

15. By way of the present petition, the petitioner has challenged the impugned order dated 23rd April, 2024 by virtue of which the respondent no. 2 was granted anticipatory bail.

16. While granting bail to the respondent no. 2, the learned Court below



observed that as per the factual matrix of the complaint, the complainant and the husband of the respondent no. 2 were in a business relationship. The complainant had alleged that the husband of the respondent no. 2 had forged certain documents and played fraud upon her. It was further observed that the alleged accused persons have already joined the investigation and are duly cooperating with the investigating agency as well as the fact that the alleged offences are based upon documentary evidence. As per the status report filed on behalf of the State, the documents which are in dispute in the aforesaid FIR have already been received by the IO. The learned Court below also observed that the co-accused, i.e., the husband of the respondent no. 2, who is alleged to be the main accused, had been already granted bail vide order dated 21st February, 2024.

17. Taking the aforesaid into consideration, the Court concerned granted anticipatory bail to the respondent no. 2 which has now been challenged by the petitioner.

18. This Court is of the view that as held in *Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565, when a person apprehends arrest and approaches a court for anticipatory bail, his apprehension of arrest, has to be based on concrete facts and not vague or general allegations relatable to a specific offence or particular offences.

19. Moreover, applications for anticipatory bail should contain clear and essential facts relating to the offence, and why the applicant reasonably apprehends his or her arrest, as well as his version of the facts. These are important for the Court while considering the application. Pertinently, the extent and reasonableness of the threat or apprehension of arrest, the gravity or seriousness of the offence and the appropriateness of any condition that



may have to be imposed are also to be borne in mind.

20. With regard to the matter at hand, it is observed by this Court that the respondent no. 2 has duly participated in the investigation and has provided all the relevant information and documents as required by the IO, and the said facts have been admitted by the IO which is also apparent from the perusal of the impugned order as well as the status report dated 26th July, 2024. This Court is of the view that the learned Court below rightly observed that the alleged accused persons have already joined the investigation and are duly cooperating with the investigating agency as well as the fact that the alleged offences are based upon documentary evidence. As per the status report filed on behalf of the State, the documents which are in dispute in the aforesaid FIR have already been received by the IO. Further, the learned Court below rightly observed that the husband of the respondent no. 2, who is alleged to be the main accused in the present FIR has already been enlarged on anticipatory bail.

21. Therefore, taking into account the aforesaid as well as the fact that investigation has been completed, chargesheet has been filed and the submission made by the learned APP that the investigating agency is going to file a supplementary chargesheet after getting the FSL report, this Court is of the considered view that the impugned order has been passed in accordance with the law and there is no illegality of any kind thereto, thus the same does not warrant the interference of this Court under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023).

22. Keeping in view the aforesaid discussions on law, this Court is of the view that the learned Court below passed the impugned order after taking



into consideration the entire facts and circumstances of the case, as well as the settled position of law and the instant petition is liable to be dismissed being devoid of any merits.

23. In light of the above discussions, the impugned order dated 23rd April, 2024 passed in Bail Matters No. 289/2024 in FIR No. 439/2023 registered at Police Station - Hauz Khas, Delhi for offences punishable under Sections 406/418/420/467/468/471 of the Indian Penal Code, 1860, by the learned ASJ-03 (South), Saket Courts, New Delhi is, hereby upheld.

24. Accordingly, the instant petition stands dismissed along with the pending applications, if any,

CHANDRA DHARI SINGH, J

NOVEMBER 6, 2024

rk/ryp

Click here to check corrigendum, if any