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

+ CRL.M.C. 6339/2023

SUNIL VIKRAM

.....Petitioner

Through: Mr.S.P. Nangia and Mr.Shivam Bedi,
Advocates

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Aashneet Singh, APP for State with
SI Harendra Singh

Mr.Sidharth Narang, Mr.Shivam and
Mr.Dhananjay Mittal, Advocates for respondent
No.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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18.09.2024

1. By way of the present petition, the petitioner seeks to assail the order dated 15.06.2023 vide which, respondent No.2 has been admitted to regular bail.
2. In support of the prayer, learned counsel for the petitioner contends that initially respondent No.2 had preferred an anticipatory bail application and while the proceedings were pending before the learned Sessions Court, respondent No.2 had made a statement of depositing a sum of Rs.1.62 crores. The matter was then referred to the mediation centre for an amicable settlement. However, later respondent No.2, rescinded from his undertaking given to the Court and did not deposit the said sum, leading to withdrawal of the interim protection granted, resulting arrest of respondent No.2 on 22.10.2020. Thereafter, bail application filed by respondent No.2 before this Court also came to be dismissed vide order dated 12.07.2021 in BAIL



APPLN. 1337/2021. It is pointed out that this Court while dismissing the bail application noted transfer of Rs.1.62 crores from the account of the complainant to the account of respondent No.2, which was also verified. Learned counsel contends that the impugned order passed on 15.06.2023 has appreciated the aforesaid facts. It is also stated that respondent No.2 is involved in two other cases of similar nature. Learned counsel has also referred to the decision in CrI.A. 1174-1178 of 2011 titled Prakash Kadam v. Ramprasad Vishwanath Gupta & Anr. and submits that it is settled law that bail can be cancelled if the order granting bail is perverse and has not been passed on relevant consideration and the present case falls under within the parameters laid down by the Hon'ble Supreme Court in the above judgment as the respondent No.2 is a habitual offender and multiple cases of cheating and forgery have been registered against him.

Further, it is submitted that gravity of offence, conduct of accused and other factors ought to be considered while considering bail application by the Court which has not been considered in the present matter. In support of this submission, reliance has been placed on the decision in Criminal Appeal No.861/2022 titled Deepak Yadav v. State of U.P. & Anr. and in Criminal Appeal Nos.599-600 of 2001 titled Puran and Others v. Rambilas and another.

3. Learned APP for the State submits that the State has not challenged the impugned order as the impugned order was passed considering the period of custody from 21.10.2020 till the passing of the order. It is stated that in between, respondent No.2 was also released on interim bail. On the aspect of prior involvements, learned APP points out that the said FIRs pertain to the years 2012 and 2014.



4. Learned counsel for respondent No.2 has defended the impugned order and contends that the FIR is registered under Section 406/420 IPC which entails the maximum punishment of 7 years.

5. Though learned counsel for the petitioner has referred to the aforesaid decisions, the same pertains to the cases where offences under Sections 302/304B were involved. The present case is registered for the offence under Sections 406/420 IPC. A perusal of the records would show that respondent No.2 has been enlarged on bail after being nearly incarcerated for about 2 ½ years.

6. At this juncture, it is pertinent to observe the law with regards to the circumstances when bail can be cancelled. 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

“An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment for Courts for trial of such offences and for matters connected or incidental thereto”.

7. 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...”

8. In light of the aforementioned decisions as well as considering the parameters laid down in Arnesh Kumar v. State of Bihar & Anr reported as **(2014) 8 SCC 273** and Satender Kumar Antil v. Central Bureau of Investigation reported as **(2022) 10 SCC 51**, the bail once granted has to be considered only on the touchstone of it being granted for extraneous reasons, however, on a reading of the order or otherwise, the trial court has already considered all the facts including the factum of involvements in other two prior FIRs on which respondent No.2 is stated to be on bail, therefore, I find no ground to entertain the present petition. Accordingly, the petition is dismissed.

MANOJ KUMAR OHRI, J

SEPTEMBER 18, 2024

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