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

+ **CRL.M.C. 4728/2022**

PANKAJ MOHAN GOMBAR

.....Petitioner

Through: Mr. Abhay Mani Tripathi
& Ms. Anjali Chand,
Advts. with petitioner in
person

versus

THE STATE OF NCT OF DELHI

& ANR. & ORS.

.....Respondents

Through: Mr. Naresh Kumar
Chahar, APP for the State
SI Anil Kumar, PS-
Paschim Vihar East
Mr. Rajiv Sirohi, Adv. for
R2

+ **CRL.M.C. 4729/2022**

PANKAJ MOHAN GOMBAR

.....Petitioner

Through: Mr. Abhay Mani Tripathi
& Ms. Anjali Chand,
Advts. with petitioner in
person

versus

THE STATE OF NCT OF DELHI

& ANR. & ORS.

.....Respondents

Through: Mr. Naresh Kumar
Chahar, APP for the State
Mr. Rajiv Sirohi, Adv. for
R2

+ **CRL.M.C. 4738/2022**

PANKAJ MOHAN GOMBAR

.....Petitioner

Through: Mr. Abhay Mani Tripathi
& Ms. Anjali Chand,
Advts. with petitioner in
person

versus

CRL.M.C. 4728/2022 & connected matters

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THE STATE OF NCT OF DELHI
& ANR.

.....Respondents

Through: Mr. Naresh Kumar
Chahar, APP for the State
Mr. Rajiv Sirohi, Adv. for
R2

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

04.11.2024

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1. The petitioner challenges the order dated 17.05.2022 pursuant to which the accused/Respondent No. 2 was granted bail under Section 438 of the Code of Criminal Procedure, 1973, in FIR No.398/2022 for offence under Sections 420/468/120B/506/34 of the Indian Penal Code, 1860.

2. The FIR was registered on a complaint by the petitioner alleging that during the course of business, he paid a sum of ₹54,95,000/- to the Respondent No. 2's company for delivery of garments, however, the accused refused to deliver the promised goods and also prepared fake invoices showing that the goods have been delivered.

3. During the course of investigation, it was found that the complainant had transferred ₹39.20 lakhs into the bank account of the accused. The complainant further alleged that a sum of ₹15.75 lakhs was also paid in cash.

4. The receipt of cash was denied by the accused persons. The accused, during the course of investigation, allegedly could not produce the proof for delivery of the goods.

5. The learned Additional Sessions Judge ('ASJ') noted that the Investigating Officer ('IO') had informed that the accused was interrogated and all the documents had been collected.

Noting that the nature of transaction between the complainant
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and the accused is mercantile in nature, the accused/Respondent No. 2 was granted bail.

6. The learned counsel for the petitioner submits that the learned ASJ erroneously recorded that the IO had informed that the accused had been interrogated and all the documents had been collected. He has taken the Court through the Status Report filed by the prosecution before the learned Trial Court categorically stating that the accused are not cooperating with the investigation since the beginning and are not giving satisfactory answers. It was further mentioned that the accused joined the investigation only once and on two occasions, did not turn up despite the notice being served.

7. From the perusal of the status report, it appears that the accused persons had not fully cooperated with the investigation. The learned ASJ, thus, as pointed by the learned counsel for the petitioner, erroneously notes that the accused have responded appropriately to the requisitions of the IO and that all the documents required were collected.

8. To the aforesaid extent, this Court agrees with the arguments raised by the petitioner, however, it is undisputed that the chargesheet had subsequently been filed on 21.11.2022 and the matter has since proceeded. It is not the case of the prosecution that an incomplete chargesheet has been filed. The filing of the chargesheet itself indicates that the investigation is already complete.

9. The status report has also been filed in the present case before this Court. It is not the case of the prosecution that the accused persons have misused the liberty after being admitted on bail by the learned Trial Court by order dated 17.05.2022.

10. The maximum punishment for offence under Sections



420/468 of the IPC is up to seven years of imprisonment.

11. Much water has flown since the passing of the impugned order. The accused though had not cooperated with the investigation initially. The police, however, did not felt the need for custody of accused person and filed the chargesheet after completing investigation. Chargesheet was also filed way back on 21.11.2022. It is not the case of the prosecution that custody of accused is required at this stage for further investigation.

12. Considering the above, this Court does not consider it apposite to interfere with the impugned order at this stage.

13. The present petition is, therefore, dismissed.

14. A copy of this order be placed in all the matters.

AMIT MAHAJAN, J

NOVEMBER 4, 2024

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