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

+ **W.P.(CRL) 1893/2024 & CRL. M.A.18360/2024**

VIJAY BHASKAR

..... Petitioner

Through: Mr. Anurag Ahluwalia, Mr. Aninnoya Malhotra and Mr. Kartik Wadhwa, Advocates (M:7678656008).

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC (Crl.) for the State with SI Giriraj PS DIU/South West, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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01.07.2024

1. By way of present writ petition filed under Article 226 of the Constitution of India, the petitioner seeks setting aside of the orders dated 06.05.2024 and 09.05.2024 passed by the learned MM (10), Dwarka District Courts, New Delhi in FIR No.0466/2023 registered at PS Kapashera, Delhi now transferred to DIU/South West District, Delhi vide which the court concerned had issued NBWs and also initiated process under Section 82 Cr.P.C against the petitioner.

2. Issue notice.

3. Notice is accepted by learned ASC (Crl.) for the State.

4. Mr. Anurag Ahluwalia, learned counsel for the petitioner contends that the petitioner has been accused in the aforesaid FIR along with his other family members. He submits that the petitioner being 70 years of age has already joined investigation on multiple occasions and in this regard, has referred to the various seizure memos indicating physical handing over of



documents by the petitioner during investigation to the investigation officer. He submits that the petitioner lastly joined investigation on 30.04.2024. Thereafter, the petitioner received a WhatsApp message on 02.05.2024 asking him to join investigation on the evening of the same date. The petitioner immediately replied to the IO seeking accommodation for appearing on 07.05.2024. However, instead of considering the petitioner's request, the IO preferred an application before the concerned Court seeking issuance of NBWs and initiation of proceedings under Section 82 Cr.P.C. He emphasizes that the petitioner has joined investigation as and when called by the IO except on 02.05.2024 on account of his ailing health. He, on instructions, further states that the petitioner undertakes to join investigation as and when directed.

5. Learned ASC (Crl.) for the State on the other hand has opposed the petition and submits that during investigation, enough material has come on record to show that the petitioner has been involved in the present case along with his family members. He further submits that the petitioner's wife already stands arrested. He however, on instructions from the IO, states that so far only notices under Section 41-A Cr.PC were issued to the present petitioner including on 02.05.2024.

6. Keeping in view that the only ground for seeking issuance of NBWs and initiation of proceedings under Section 82 Cr.PC were on account of non-joining of the investigation by the petitioner on 02.05.2024 and considering the further fact that so far, the notices have been issued against the petitioner under Section 41-A Cr.P.C and that admittedly, the petitioner has continued to join investigation except on 02.05.2024 for which he gave an explanation, this Court is inclined to set aside the impugned orders. Accordingly. The



NBWs as well as the proceedings initiated against the petitioner are set aside.

7. The petition is disposed of in above terms along with pending application.

MANOJ KUMAR OHRI, J

JULY 1, 2024/*rd*