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

% Judgment delivered on: 10.04.2024

\+ **BAIL APPLN. 3523/2023 & CRL.M.A. 28564/2023 & 9956/2024**

MANU WADHWA @ MOHIT ..... Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. with Mr. Hirein Sharma, Mr. Saurabh Goel, Ms. Manisha Saroha, Mr. Nikhil Beniwal, Mr. Navish Bhati and Mr. Aniket Gupta, Advocates.

versus

THE STATE, GOVT OF NCT OF DELHI ..... Respondent

Through: Mr. Raghvinder Verma, APP for State with Insp. Yograj Dalal, EOW, Delhi. Mr. Abhimanyu Sharma, Adv. for complainant.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J. (ORAL)

1. The present bail application has been filed under Section 438 CrPC read with Section 482 CrPC seeking anticipatory bail in connection with FIR No.0116/2021 under Sections 406/420/120B IPC registered at PS EOW.

2. The present case was registered on the joint complaint of one Ms Gurpreet Kaur Rai and her three children, namely, Navjeet Kaur Rai, Jaspreet Kaur Rai and Karanbir Singh Rai.

3. The allegation against the present petitioner is that the complainant, as well as, the petitioner was the follower of “Guru ji” of Chattarpur for last few years. The petitioner/accused also used to organize a satsang of "Guruji" at his residence in Rajouri Garden and the complainant started visiting the petitioner's house every Saturday for satsang. During the visits in satsang, the petitioner and his family took the complainant into confidence by giving them false promises of high returns and convinced them to make an investment in various schemes in Dubai and abroad. Initially, some returns were given to the complainants, therefore, they kept on making further payments to the petitioner/accused.

4. The case of the prosecution as borne out from the status report is that the petitioner/accused was paid an amount of Rs.3.79 crores in cash; Rs.2.38 crores through bank transfer; and Rs.91.36 lakhs through credit cards. Out of the said amount, a sum of Rs.1.34 crores were returned by the petitioner/accused as interest. Accordingly, an amount of Rs.5.75 crores was due from the petitioner/accused to the complainants.

5. After the registration of case, the petitioner moved for anticipatory bail before the learned Additional Sessions Judge, Tis Hazari Courts and on the basis of the settlement arrived at with the complainant/Gurpreet Kaur Rai during the mediation, the petitioner *vide* order dated 16.11.2021 was granted interim protection from arrest. As per the mediation settlement, the petitioner had to pay a sum of Rs.3.60 crores to the complainant/Gurpreet Kaur Rai in 27 installments starting from 31.10.2021 till 31.12.2023. However, only the first installment was paid in terms of the settlement,

which was for an amount of Rs.20 lakhs. Thereafter, not even a single penny was paid by the petitioner/accused to the complainant.

6. Since, the petitioner failed to comply with the settlement, an application for cancellation of anticipatory bail was filed by the complainant, which was allowed and the protection from arrest granted to the petitioner/accused was revoked by an order dated 26.09.2023 passed by the learned Additional Sessions Judge, Tis Hazari Courts. The relevant extract of the said order reads as under:-

> *"Thus, in the present matter, protection from arrest was given to the non-applicant/accused Mann Wadhwa on the ground that he had entered into mediation settlement with the complainant Ms. Gurpreet Kaur but the accused has failed to comply with the terms of mediation settlement and in view of the same, protection from arrest given to accused Manu Wadhwa vide order dated 16.11.2021 is hereby revoked."*

7. After the protection from arrest of the petitioner was revoked by the learned Additional Sessions Judge, the petitioner filed for anticipatory bail in Tis Hazari, which also came to be dismissed *vide* order dated 09.10.2023 passed by the learned Additional Sessions Judge, Tis Hazari Courts. The relevant extract of the said order reads thus:-

> *"Keeping in view the entire facts and circumstances of the present case, the nature and gravity of the offences alleged, the fact that this is a multi-victim case, the fact that there is alleged cheating of approximately Rs. 7.80 crores, that accused had even failed to comply with the mediation settlement which was entered between one of the complainant and the applicant/accused, the fact that applicant/accused has failed to produce any documents regarding transactions with*

the victim and subsequent investments made if any, the fact that as per the reply of the IO, his custodial interrogation is required and the fact that applicant/accused is involved in two other cases of similar nature, however without expressing any opinion on the merits of the present case, at this stage, this Court is not inclined to grant anticipatory bail to the applicant/accused. Hence, anticipatory bail application of applicant/accused Manu Wadhwa @ Mohit is hereby disposed of as dismissed."

8. Sequel to the above, the present petition has been filed. Notice in the petition was issued *vide* order dated 18.10.2023 with a direction to the State to file a status report. The status report dated 28.11.2023 has been filed, the same is on record.

9. Subsequently, *vide* order dated 30.11.2023, it was directed that no coercive action be taken against the petitioner subject to his joining investigation on 05.12.2023 at 4:00 PM and subsequently as and when directed by the IO concerned.

10. Learned Senior Counsel for the petitioner/accused invites the attention of the Court to the FIR, to contend that it is the case of the prosecution itself that the amount given by the complainants to the present petitioner/accused was in the form of an investment and any investment is always subject to the risk of loss. He submits that it is not the case of the prosecution that the complainants had made the payment to the petitioner/accused in one go, rather the payments were made in different tranches and all this while the petitioner had been giving the returns to the complainants. According to him, an amount of Rs.1.34 crores was repaid by the petitioner to the complainant and this fact is also borne out from the status report.

11. He submits that the very fact that the petitioner had been paying the returns on the investment so made by the petitioner goes to show that the present petitioner had no intention to cheat the present petitioner from the very inception. He submits that in the present FIR Section 406 IPC and Section 420 IPC have been invoked which doesn't go together. Either it could be a case of cheating or criminal breach of trust.

12. According to the learned Senior Counsel the dispute involved in the present case is essentially of civil nature and no civil suit was filed by the complainant at any stage, therefore the claim of the petitioner has become time barred. He submits that the present criminal proceedings are being used as a tool to arm-twist the present petitioner.

13. He submits that the complainant has not given the source of funds alleged to have been given in cash and the status report is also silent about the same. He submits that the petitioner has joined and cooperated in the investigation. As regards other FIRs registered against the present petitioner are concerned, the contention of the learned Senior Counsel is that the petitioner is either on bail or the FIR has been quashed based on settlement. He, therefore, urges the Court to grant anticipatory bail to the present petitioner.

14. *Per contra*, learned APP for the State has argued on the lines of the status report. He submits that though the petitioner has joined investigation but he has not cooperated in the investigation.

15. He submits that after the present FIR was registered on 27.07.2021, the petitioner filed an application seeking anticipatory bail and during the pendency of the said application he got the matter referred to the mediation

where he entered into a settlement with the complainants and agreed to pay a sum of Rs.3.40 crores in 27 monthly installments but only one installment of Rs.20 lakhs was paid by the petitioner on 31.10.2021. On the basis of the said settlement, the petitioner was granted interim protection from arrest *vide* order dated 16.11.2021 which he enjoyed for a period of two years approximately till September, 2023. However, due to non-compliance of the terms of settlement, the interim protection so granted to the petitioner was revoked by the court of learned Additional Sessions Judge vide order dated 26.09.2023 on an application for cancellation of bail filed by the complainants.

16. He submits that the intention of the petitioner was dishonest from the beginning as it is evident from the fact that the petitioner had not only allured the present complainant but also deceived other families of Shri Mool Chand, Shri Satinder Sehgal and Shri Udesh Sethi. The petitioner allured the complainants to part with more and more money and initially to win over their confidence some money was also returned by way of interest to the complainants.

17. He submits that the complainants have been deceived by the petitioner by making false promises and misrepresentation of high returns.

18. He further refers to the status report, to contend that during interrogation the petitioner has not cooperated since he did not produce the documents referring to the investment made by him from the amount so received by him from the complainants/victims.

19. He further contends that the applicant/accused had been involved in two other criminal cases *vide* FIR No.56/2013 under Sections

420/406/506/120B IPC registered at PS EOW and FIR No.0501/2021 under Sections 406/420 IPC registered at PS Amar Colony. He, therefore, urges the Court that the present petition may be dismissed.

20. I have heard the learned Senior Counsel for the petitioner, as well as, the learned APP for the State and have perused the material on record.

21. From the perusal of the FIR, as well as, the status report *prima facie* there appears to be some substance in the contention of the learned APP that the present petitioner initially gained the confidence of the complainants/victims by paying small returns and thereafter allured them to part with huge amount and did not repay the same.

22. Originally, the complaint was made by the complainant Ms Gurpreet Kaur Rai along with her children alleging that she had been cheated by the petitioner to an extent of Rs.5,63,37,090/-. As per the status report, during investigation three more complaints were received against the present petitioner/accused from the families of Shri Mool Chand, Shri Satinder Sehgal and Mr Udesh Sethi and those complaints have also been clubbed with the present FIR. The nefarious activities of the petitioner are thus, not only confined to the present complainants. Evidently, number of persons have been duped by the present petitioner. As per the status report, total amount alleged to have been cheated by the petitioner is to the extent of Rs.7.488 crores.

23. During the investigation, the petitioner also failed to produce any document to show the investments allegedly made by him from the amount so received/cheated from the complainants or from various other victims. Further, to get interim protection, the petitioner also tricked the

complainants to enter into a settlement with him during the mediation but he did not comply with the terms of the said settlement as well. Out of agreed 27 monthly installments in the settlement, only 1st installment of Rs.20 lakhs was paid by him to the complainant.

24. Thus, it is a case where custodial interrogation of the petitioner is required. It needs to be ascertained where the petitioner had invested the amount cheated from the complainants / victims. Further, the documents in respect of such investments / transactions are to be recovered from him. From the status report, it is also evident that two other cases of similar nature were registered against the present petitioner/accused though in one such case he was acquitted on the basis of compromise and in the second case the investigation is still stated to be pending. It is a multi victim case involving cheating of approximately Rs. 7.488 crores which makes custodial interrogation all the more imperative.

25. Considering the aforesaid circumstances and without expressing any opinion on the merits of the present case, this Court is not inclined to grant anticipatory bail to the present petitioner at this stage.

26. Accordingly, the petition is dismissed. All the pending applications are disposed of.

VIKAS MAHAJAN, J.

APRIL 10, 2024/MK