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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **BAIL APPLN. 3657/2023**

BRIJESH KUMAR

.....Applicant

Through: Adv. Prabhoo Dayal
Tiware, Adv. Surya
Kumar, Adv. Irfan
Firdous, Adv. Aleena &
Adv. Manish Tiwari.

versus

STATE GOVT. OF NCT OF DELHI Respondent

Through: Mr. Pradeep Gahlot, APP
for the State with Si Sunil
Nath, PS Rani Bagh.
Mr. Brahmanand Gupta,
Adv. for complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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08.02.2024

CRL.M.A. 29839/2023 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 3657/2023

3. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') seeking grant of pre-arrest bail in FIR No.109/2023 dated 14.04.2023 for offences punishable under Sections 420/34 of the Indian Penal Code, 1860 ('IPC'), registered at Police Station Rani Bagh.

4. The FIR was registered on a complaint given by the

BAIL APPLN. 3657/2023

Page 1 of 4



complainants Bal Kishan and Dinesh that the complainants between the year 2009 to 2016 invested money amounting to ₹15,80,000/- and ₹21,00,000/- respectively with the applicant. It is alleged that applicant was running a chit fund and was collecting monthly money from the complainants. However, the same was never returned despite repeated requests and reminders. It is further alleged that after 2016, the applicant disappeared in order to avoid refunding the money to the complainants and other persons.

5. The learned counsel for the applicant submits that the applicant has been cooperating with the investigation as and when directed. He submits that applicant has not taken any money from the complainants and even if any such money is taken, the dispute in relation to its refund is a civil dispute, for which an appropriate proceeding for recovery of money is required to be filed.

6. The learned counsel for the complainant is present and opposes grant of any relief to the applicant. He submits that the diary maintained by the applicant / accused, evidencing that the money was taken from the complainant and other persons, was handed over to the concerned Investigating Officer, which specifically reflects that the accused had collected money over the period of time, and the same was never refunded.

7. On being pointedly asked, if there is any document evidencing that any payment was made to the applicant, the learned counsel for the complainants submits that the same was paid in cash. He submits the applicant / accused and the complainants were neighbours and therefore the applicant was entrusted with the said amount.

8. It is seen that the allegation relates to the payment of
BAIL APPLN. 3657/2023

Page 2 of 4



money between the period 2009 to 2016. Even though, the learned counsel for the complainants submits that an application under Section 156(3) Cr.P.C was filed in the year 2018, the FIR was registered finally in the year 2023. At this stage, in the absence of any proof of payment of money, the present case seems to be a dispute in relation to recovery of money.

9. The allegations at this stage are solely based on the statement of the complainants without any corroborative material. The dispute relates to the period starting from the year 2009 for which no complaint was admittedly given on earlier occasion.

10. It is not disputed that applicant has joined investigation. Merely not admitting to guilt does not amount to non-cooperation with the investigation.

11. In view of the above, in the event of arrest, the applicant is directed to be released on bail on his furnishing a personal bond of ₹50,000/- with two sureties of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the Investigating Officer;
- b. The applicant shall appear before the learned Trial Court on every date of hearing;
- c. The applicant shall keep the Investigating Officer informed of his current address and mobile contact number, and/or change of residence or mobile details, if any, from time to time;
- d. The applicant shall not tamper with evidence or contact any of witnesses in any manner whatsoever;
- e. The applicant shall not leave the boundaries of the



city without informing the concerned Investigating Officer.

12. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial. The said observations should not be taken as an expression of opinion on the merits of the case.

13. The application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

FEBRUARY 8, 2024

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