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

\+ BAIL APPLN. 2789/2024, CRL.M.A. 23322/2024 **&** CRL.M.A. 23323/2024

SANTOSH KUMAR CHOUBEY .....Petitioner

Through: Mr.Roshan Thawani and Mr.Pratul Pratap Singh, advts.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr.Raghvinder Varma, APP for the State.
SI Yogendra Kumar, PS EOW, Sec IV, Mandir Marg

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

O R D E R

% **07.08.2024**

1. Present application has been filed for grant of anticipatory bail in case FIR no.185/2017 under Section 420/406/467/468/120B/34 IPC at Ps Okhla Industrial Area.

2. Learned counsel for the petitioner at the outset has submitted that the name of the petitioner does not appear in the FIR. Learned counsel for the petitioner further submits that two more FIRs being No. 310 of 2017 dated 19.09.2017 registered with P.S. CCB-I, Chennai, and Crime No. 03/2018 and 397 of 2017 dated 17.11.2017 P.S. CCB were also registered showing similar frauds of bank guarantees. Even in these two case, the Petitioner was nowhere named by the respective complainants. Learned counsel submits that even after seven years of

the registration of the FIR, IO without serving any notice under Section 41, directed the petitioner to join the investigation. Learned counsel submits that the petitioner duly joined the investigation and cooperated in the investigation. It has further been submitted that only evidence against the present petitioner is the disclosure statement made by the co-accused. Learned counsel submits that in all fairness, the petitioner himself supplied the copy of the bank accounts which reflects an entry of Rs.58 lakhs having been coming from M/s TSN Ecotech International Pvt. Ltd. Learned counsel submits that in fact the petitioner was working as a consultant with M/s TSN Ecotech Pvt. Ltd and therefore on the basis of that the anticipatory bail may be granted. It has further been submitted that there is no need for custodial interrogation in the present case.

3. Issue notice. Learned APP has accepted the notice.

4. Learned APP has relied on the status report filed before the learned trial court. Learned APP submits that as per the status report, the complainant company entered into an agreement with the alleged company M/s TSN Ecotech International Pvt. Ltd. The company allegedly furnished six bank guarantees worth Rs.3 crores purportedly issued by State Bank of India in favor of complainant company. The case of the prosecution is that the complainant company supplied goods of Rs.4.84 crores. However, the alleged company did not pay Rs.2.19 crore. When the complainant company wrote to State Bank of India for the encashment of the bank guarantees, the bank guarantees were found to be fake and forged. Learned APP submits that during the course of investigation, the address of the alleged company at No.10, Behind

Sainath Aparment, Gali No.16, Old Ragpuri Road, Delhi-110020 was also found not to be in existence. The investigation also revealed that six bank guarantees on being verified from the Branch Manager of State Bank of India, City Centre, Sector-4, Bokaro Steel City, Bokaro,Jharkhand were found to be fake. The investigation into the bank accounts of M/s TSN Ecotech International Pvt. Ltd. reveals that one Mohammed Sirajuddin was authorised to operate the bank account and he was appointed managing director of the company.

5. Learned APP submits that during investigation Mohammed Sirajuddin was arrested from Balagram, Nedumkandam, Idukki District, Kerala and during custodial interrogation, Mohammed Sirajuddin told that he was introduced to the present petitioner by Mr. Cartigueyane Gopal. Mr.Gopal told that petitioner will help them in getting the bank guarantee and letters of credit as he provides aid for finances on the basis of 6-7% depending on the commodity. Allegedly, Mohammed Sirajuddin organised certain letters of credit and certain loans disbursed in favour of M/s TSN Ecotech International Pvt. Ltd. This amount was utilized by taking the expenses to the other persons including the present petitioner. No activity was undertaken to develop the LEDs business. Allegedly, during these financial transactions which included other persons Mr.Gopal along with the petitioner arranged for six bank guarantees of Rs.50 lakhs in the name of State Bank of India, Bokaro, Jamshedpur each in favour of M/s Intex Limited. Allegedly, the petitioner used his influence in the bank. Learned APP submits that investigation reveals that the petitioner shared the format of the bank guarantee to Mr.Gopal which was further forwarded by Mr.Gopal to

Mohammed Sirajuddin. There was exchange of emails between the Gopal and Mohammed Sirajuddin regarding soft copies of six SBI bank guarantees, BG Format, BG Details and names of the bank officials.

6. The record reveals that as per investigation, the petitioner was found to be involved along with Mr.Gopal in issuing the bank guarantee and letters of credit for security towards payment in the business and he along with Sirajuddin organised fake guarantee for credit purposes to the alleged company M/s TSN Ecotech International Pvt. Ltd. The record also reveals that mail dated 31.10.2016 sent by Mr.Gopal to Mohammed Sirajuddin for transferring Rs.25,000/- to the petitioner. A sum of Rs.58 lakhs was also sent in 2016-2017 to the petitioner by the accused company. Similarly, the accused had allegedly received money from the bank account of Mohammed Sirajuddin, PNB bank and M/s Greenland Enterprises and M/s Rohsan Agencies respectively.

7. The jurisdiction of anticipatory bail is to be exercised sparingly. The criteria used to evaluate an accused person's conduct when considering a plea for anticipatory or pre-arrest bail are not predetermined and instead rely heavily on the specific facts of each case. It is a settled proposition that the parameters to be considered while granting Anticipatory Bail and the nature and gravity of the accusation along with the role of the accused looked at. It is a well-settled principle that whilst considering an application for Anticipatory Bail, the role attributable to the applicant must be examined. Reliance can be placed on ***Siddharam Satlingappa Mhetre v. State of Maharasthra and Others*** AIR 2011 SC 312 and ***Sushila Aggarwal v. State (NCT of Delhi)*** (2020) 5 SCC 1.

8. The bail application being filed by the petitioner has been dismissed by the learned Sessions Court vide a detailed order. Learned trial court has taken into account that the petitioner has not placed any document regarding the exact nature of 'consultancy services' provided by him to TSN Eco Tech International Pvt. Ltd. at the relevant time with respect to the said development project. Today also during the submissions, Learned counsel for the petitioner has not been able to provide any such document. Similarly, there is no other material on record or being shown by the petitioner regarding any bills/invoices raised upon the company from where the payment has been received. It is settled proposition that the court at the stage of exercising jurisdiction for grant of anticipatory bail has to circumspect that anticipatory bail can be granted only where there is a apprehension of false implication or harassment of the accused. The court has also to see the nature of the allegations and the gravity of the offence. The present case revolves around alleged issuance of bank guarantee. There are several financial transactions between the alleged company and the persons. I consider that such kind of cases do require custodial interrogation. Hence, the present petition is dismissed.

DINESH KUMAR SHARMA, J

AUGUST 7, 2024/rb/dg..