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

+ **BAIL APPLN. 4063/2023**

**NISHANT JAIN**

..... Applicant

Through: Mr.Abhik Kumar, Mr.Rinku Mathur, Mr.Deepak Girdhar, Advs.

versus

**THE STATE OF GOVT OF NCT OF DELHI THROUGH EOW**

..... Respondent

Through: Mr.Aman Usman, APP with Insp. Sandeep Maan.  
Mr.Sumit Roy, Mr.Sidharth Mahajan, Ms.Neelam Phukan, Advs. for complainant.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER**

**28.02.2024**

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1. This application has been filed under Section 439 of Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking the applicant to be released on Bail in FIR No.0123/2020 registered at Police Station: Economic Offences Wing (EOW), Delhi under Sections 406/420/120B of the Indian Penal Code, 1860 (in short, 'IPC').

2. It is the case of the prosecution that the applicant was working as a Group Manager, Finance and Accounts with the complainant / M/s Centum Learning Ltd. and he has conspired with the co-accused persons by way of creating false invoices, thereby causing a loss to the tune of Rs.4,30,02,916/- to the complainant company, out of which the applicant has received back a sum of Rs.1.82 crore in his own bank account as well as in the bank account of his mother. The



prosecution alleges that the said amount was routed through the Shell Companies.

3. The learned counsel for the applicant submits that the applicant has been in custody since 15.05.2023; the investigation already stands concluded and the charge-sheet has been filed. It is stated that the trial is likely to take long. He further submits that the complaint was filed on 19.06.2019, on the basis of which the subject FIR was registered only in September, 2020. The learned counsel for the Applicant submits that, in terms of the judgment of the Supreme Court in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, the notice under Section 41A of the Cr.P.C. is to be given to the accused within a period of two weeks of the receipt of the complaint, failing which reasons are to be recorded for the delay, and in case of failure to comply with these conditions, departmental action is to be initiated against the erring police officer. He submits that, in the present case, there is non-compliance with the above direction, and, therefore, in terms of the judgment of the Supreme Court in *Satender Kumar Antil v. CBI*, (2022) 10 SCC 51, the benefit thereof is to be granted to the accused by releasing him on bail.

4. The learned counsel for the applicant further submits that the purpose of keeping the applicant in custody is only to ensure his presence in the trial. He submits that the applicant is ready and willing to undergo any stringent conditions that this Court may impose for the purpose of securing the presence of the applicant in the trial, including of him sharing his live location with the Investigating Officer (IO) and not leaving the territory of NCR without seeking prior permission of



the learned Trial Court. He further submits that the bail cannot be denied to the applicant as a matter of punishment only looking into the severity of the allegations made against the applicant.

5. On the other hand, the learned APP and the learned counsel for the complainant submit that, in the present case, there are grave allegations of siphoning off of the funds against the applicant and an amount of Rs.1.82 crore has been received back in his bank account and in the bank account of his mother from overseas. The investigation regarding the role of persons overseas is still being carried out and there is a likelihood that the applicant may tamper with the evidence in case he is released on bail. They further submit that the applicant has been regularly changing his residential address because of which earlier attempts to serve a notice on him under Section 41A of the Cr.P.C. remained futile. It is only after much efforts that the notice under Section 41A of the Cr.P.C. could be served on the applicant. They submit that, therefore, there is a likelihood of the applicant absconding, if released on bail.

6. I have considered the submissions made by the learned counsels for the parties.

7. The applicant has already undergone custody for a period of more than nine months. There are no criminal antecedents of the applicant and his conduct in jail is reported to be 'satisfactory', as per the Nominal Roll. The charge-sheet already stands filed against the applicant. The trial is likely to take long.

8. Though it may be true that the applicant has been repeatedly changing his residential address, the learned counsel for the applicant



has explained the same by contending that the applicant resides in a rented accommodation and therefore, is forced to change his residential address on regular basis.

9. As noted herein above, the learned counsel for the applicant has volunteered that the applicant shall keep his mobile location on and shall share his live location with the Investigating Officer (IO) at all times. He has submitted that the applicant also undertakes to abide with any stringent conditions being imposed by this Court for ensuring the presence of the applicant during the trial.

10. Keeping in view the principles enunciated by the Supreme Court in *Sanjay Chandra v. Central Bureau of Investigation* (2012) 1 SCC 40, in my view, therefore, the applicant has been able to make out a case for releasing him on bail.

11. Accordingly, it is directed that the applicant / Nishant Jain be released on bail in FIR No.0123/2020 registered at Police Station: EOW, Delhi under Sections 406/420/120B of the IPC on furnishing a personal bond in the sum of Rs.2,00,000/- with one local surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO



concerned.

- iii. The applicant shall keep his mobile location on and shall share his live location with the IO at all times.
- iv. The Applicant shall provide his permanent address to the learned Trial Court and IO as well. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.
- v. The applicant shall not leave the territory of the NCR.
- vi. The applicant shall, once a week, appear before the IO at Police Station: EOW, Mandir Marg, Delhi.
- vii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- viii. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses. In case the Applicant is found to be involved in another case, it will be open to the prosecution to file an appropriate application seeking cancellation of his bail in the present case as well.
- ix. The applicant shall not make any contact with any of the co-accused and shall not in any manner tamper with the evidence.

12. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

13. The bail application is disposed of in the above terms.



14. Copy of this judgment be sent to the Jail Superintendent for information and necessary compliance.

15. *Dasti.*

**NAVIN CHAWLA, J**

**FEBRUARY 28, 2024/Arya/ss**

*Click here to check corrigendum, if any*