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

% ***Date of decision: 20th August, 2024***

\+ **BAIL APPLN. 2944/2024 & CRL.M.A. 24668/2024**

SATBIR SINGH .....Petitioner

Through: Mr. Jagdeep Sngh Lamba & Mr. Mukesh Kumar Sharma, Advocates.

versus

STATE (NCT OF DELHI) & ANR. .....Respondents

Through: Ms. Richa Dhawan, APP for State. Mr. Hemant Kumar, Mr. Venkatesh Joshi & Mr. Bhavishya Mohaniya, Advocates for respondent No. 2. S.I. Vikrant Singh, PS Janakpuri, Delhi.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T ***(oral)***

CRL.M.A. 24669/2024 (*Exemption*)

1. Allowed, subject to just exceptions.

2. The present application is disposed of.

BAIL APPLN. 2944/2024

3. The present Petition under Section 438 *(hereinafter referred to as* "Cr.P.C., 1973"*)* read with Section 482 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking Anticipatory Bail in FIR No. 456/2023 Police Station Janakpuri, Delhi registered under Section 406 of the Indian Penal Code, 1860 *(hereinafter referred to as* "IPC, 1860"*)*.

4. It is submitted in the petition that the Anticipatory Bail under Section

438 of Cr.P.C., 1973 filed on behalf of the petitioner was dismissed *vide* Order dated 29.07.2024 passed by the learned Additional Sessions Judge, Delhi.

5. The ***facts in brief*** are that the petitioner had past long relationship and financial dealings with respondent No. 2's husband, who is retired as Assistant Commissioner of Police, Delhi. Many a times loans were taken by him from the respondent No. 2 and her husband, which he used to return.

6. The petitioner constructed a building at Village Kuleth in Tehsil Rajgarh, District Sirmour, Himachal Pradesh *(hereinafter referred to as the* "said property"*)* which was completed in February, 2020. Thereafter, the petitioner entered into a Partnership with the respondent No. 2 in the name of M/s The Orchard, to run a homestay in a small portion of the said property.

7. As per the Partnership Deed dated 03.08.2021, the petitioner and the respondent No. 2 were to have 50-50% share each in profits and losses. As per the mutual understanding, the respondent No. 2 was supposed to take all the requisite permissions and approvals from the concerned authorities and to do publicity by all modes, including electronic mode, which was done by her and her family who used all the electronic modes i.e., Facebook, Instagram etc., to take bookings/payments as the Host, on the mobile number. They also took the services of the Airbnb platform to take bookings and provided all their details like mobile number, mail address, account number, etc., to the Airbnb platform. It is claimed that all the bookings were under the control and directions of the respondent No. 2 and her family and they never told the petitioner about the amounts that were received by them and in which account, the amounts were being credited. The petitioner in

the past many months suffered losses in rent @ Rs. 1,50,000/- per month, salaries in total sum of Rs. 9,35,000/- till date, and other expenses in the sum of Rs. 7,00,000/- for this joint work. The petitioner requested the respondent No. 2 to settle the accounts, but she delayed it and failed to provide the requisite documents. The petitioner then requested the respondent No. 2 to give in writing that she had no concern with the business of M/s The Orchard, so that he can move forward with proper utilisation of the said property. However, documents given to her for signatures were never returned resulting in a total loss of Rs. 70,00,000/-.

8. It is further submitted that in February 2023, because of the issues, the relations between respondent No. 2 and her family and the petitioner became strained and they are not on talking terms anymore.

9. It is also submitted that as per the husband of the respondent No. 2 who has given a message through Anil Vij, the petitioner had to return Rs. 52,30,000/- upto August, 2023. However, the respondent No. 2 has failed to take into account Rs. 10,00,000/- paid on 24.08.2024 which fact was duly communicated to Anil Vij who assured that he would get the requisite entry made and discuss the matter with the husband of respondent No. 2.

10. On 26.10.2023, the petitioner handed over four cheques to Anil Vij without any settlement of account as the petitioner was busy in his son's marriage scheduled on 23.11.2023. On 11.11.2023, the petitioner handed over two more post-dated cheques to Anil Vij, one in the name of Hament Kumar, son of the respondent No. 2 and another in the name of Hament's wife on the assurance of Anil Vij that these cheques which have been issued in lieu of Cheque Nos. 542 & 546, which Hament Kumar was to return to the petitioner.

11. The respondent No. 2 presented the Cheque No. 542 of Rs. 35,00,000/- in a planned conspiracy to defraud the petitioner and thereby the petitioner was compelled to stop the payment against the other cheques to avoid further misuse about which he gave due information to Anil Vij who assured that no cheque would be misused and would be returned and the accounts would be settled.

12. The petitioner has asserted that after receiving the Cheque dated 01.03.2023, he had also transferred Rs. 15,00,000/- to the husband of the respondent No. 2 on 20.11.2023. A Complaint dated 20.11.2023 was filed against him on which the FIR has been registered in a very hasty and planned manner.

13. Further, Legal Notice under Section 138 of the Negotiable Instruments Act, 1881 *(hereinafter referred to as the* "Act, 1881"*)* had been issued by respondent No. 2 and her son, to which the Reply had been given by the petitioner. They have filed cases under Section 138 of Act, 1881 against him.

14. It is submitted that the petitioner was not aware of the complaints and of the FIR about which he came to know when he found the police visiting him at his place in Himachal Pradesh. The Investigating Officer has now added Section 409 of IPC, 1860 to the present FIR.

15. It is further submitted that in the Anticipatory Bail Application filed before the learned Additional Sessions Judge, the petitioner had been given interim protection and was directed to join the investigations which he did. However, despite cooperating in the investigations, the Anticipatory Bail Application had been dismissed by the learned Trial Court.

16. It is explained that essentially there were two businesses, one was his

proprietorship business in the name *"Dabla Traders"* while the other was a partnership business i.e., *"M/s The Orchard"* which he had started with the husband of the respondent No. 2. However, the accounts of businesses have been mingled and the complainant/respondent No. 2 is falsely claiming the outstanding dues or that the accounts of the Partnership Firm have been embezzled.

17. In fact, the statement of accounts of the Partnership Firm would show that he and the respondent No. 2 have started the business to run a Homestay in a small portion of the said property in the name of *"M/s The Orchard"* for which a Partnership Deed dated 03.08.2021 had been executed between the petitioner and the respondent No. 2 with a contribution of Rs. 50,000/- each in the Partnership Firm. Thereafter, it is the petitioner who has been incurring the expenses by way of salary and other expenses, for which the respondent No. 2 has made no contribution which resulted in a loss of about Rs. 72,00,000/- to the petitioner.

18. It is asserted that it is only the business transactions which are involved between the parties and Complaints under Section 138 of the Act, 1881 had already been filed against the petitioner for dishonoured cheque.

19. The petitioner seeks anticipatory bail and undertakes to abide by any terms that may be imposed by this Court.

20. **The State in its Reply** has opposed the Bail on the ground that the petitioner has been evading arrest and Non-bailable Warrants had been issued against him by the learned Trial Court on 08.08.2024 returnable on 25.08.2024.

21. Furthermore, the petitioner is alleged to have shown some documents of the Himachal Pradesh Government, to the complainant/respondent No. 2,

and her husband which are yet to be recovered, for which the arrest of the petitioner is necessary.

22. Moreover, the offence of Section 409 of IPC, 1860 is of serious nature. There is likelihood of the petitioner influencing the business, witnesses who are the beneficiaries to whom the payment has been made. Jatin, son of the petitioner, despite being asked to join the investigations on 25.07.2024, has failed to do so.

23. It is submitted that the petitioner is showing himself as permanent resident of Delhi, but during the hearing of the Anticipatory Bail Application, it was pointed that the vehicle in the name of the accused-petitioner has the registration number of Himachal Pradesh which was not denied by the petitioner, thereby reflecting that the petitioner apparently is a resident of two States. Therefore, the bail is opposed.

24. **Submissions heard.**

25. Essentially, what has emerged from the submissions is that the petitioner along with respondent No. 2 and her husband had entered into the Partnership in the name of *"M/s The Orchard"* vide Deed dated 03.08.2021, to run a Homestay from the property constructed by him in Himachal Pradesh.

26. As per the statement of Accounts placed on record, a contribution of Rs. 50,000/- each had been made towards the Partnership Firm by the petitioner and the respondent No. 2 as an initial corpus. Thereafter, some expenses have been incurred by the petitioner, but the said business of Homestay did not flourish and the petitioner has claimed to have suffered a loss to the tune of Rs. 72,00,000/-.

27. It is also evident from the submissions that the petitioner and the

respondent No. 2 and her family had long business and financial relationship and that they have given loan to each other in their time of distress which have been paid back.

28. The petitioner is also having a sole Proprietorship Firm in the name of *"Dabla Traders"* from which certain cheques had been issued to the respondent No. 2 and her family members in discharge of the purported liabilities of the petitioner. However, the said cheques got dishonoured, for which a complaint under Section 138 of the Act, 1881 have also been filed by the respondent No. 2 and her son.

29. The respondent No. 2 is claiming a loss of Rs. 52,30,000/- upto August, 2023. The disputes *inter se* the parties are essentially of financial nature and are based on the documents and the statement of accounts. Moreover, the respondent No. 2 and her family members have already filed the complaints under Section 138 of the Act, 1881 against the petitioner.

30. Looking at the entire dispute and also that the petitioner has joined the investigations, the present petition is allowed, thereby directing that the petitioner in the event of arrest, he shall be admitted to bail by the Investigating Officer/Arresting Officer subject to the following conditions:

(i) The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with one surety in the like amount from a family member to the satisfaction of the Investigating Officer/Arresting Officer;

(ii) The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

(iii) If the petitioner has a passport, he shall surrender the same to the Investigating Officer and shall not travel out of the country without prior permission of this court;

(iv) The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

31. The Registry is directed to take on record the Status Report filed on behalf of the State.

32. The present petition along with pending application is hereby disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 20, 2024
S.Sharma

Signature Not Verified
Digitally Signed
By:VIKAS ARORA
Signing Date:23.08.2024
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