



2024:DHC:527



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

Date of decision: 23.01.2024

+ BAIL APPLN. 4319/2023 & CRL.M.A. 35342/2023
RUSLAMN PETROV METODIEV

..... Petitioner

Through: Ms.Ramni Taneja, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr.Aman Usman, APP along
with SI Dharmender, Spl. Cell
Rohini/NR & STF.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking release of the applicant on regular bail in FIR No.0163/2023 registered with Police Station: Special Cell, Delhi, under Sections 489B/489C of the Indian Penal Code, 1860 (in short, 'IPC').

2. On investigation, a charge-sheet has already been filed accusing the applicant of offences under Sections 489B/489C/489D of the IPC and Section 14 of the Foreigners Act, 1946.



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3. It is the case of the prosecution that a secret information was received on 21.06.2023 that a foreigner, resident of Gurugram, Haryana, was engaged in the supply of Fake Indian Currency Notes (in short, 'FICN'). It was further informed that he would be coming to supply such fake currency notes to one Aashaiba at Ganda Nala Road, near Najafgarh-Kapashera Road, Delhi. On the secret information so received, a raiding team was constituted by the police party, and the applicant, who was carrying an orange and grey color pitthu bag, on the identification by the informant, was apprehended. During the search of the orange and grey color pitthu bag which was being carried by the applicant, a khaki color carry bag was recovered, which, when opened, contained 16 bundles of Rs.500 denomination currency notes totalling to a sum of Rs.8,00,000/- .

As these were suspected to be fake, they have been sent to FSL for its report.

4. It is further alleged that upon interrogation, the applicant disclosed that he used to print these notes at his rented accommodation. In the search operation carried out at his rental accommodation, one lamination machine, one paper scalling and cutter machine, one scale, one paper cutting tool, one loose bundle/rim of papers, one loose bunch/rim of tracing papers, 35 tracing papers on which 500 (green color), RBI, 500, भारत, and picture of Mahatma Gandhi were printed, 30 semi-finished



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FICN seats, 03 wooden frames with imprints of numeral 500 and one wooden frame, one metallic clamping tool, 02 (Two) adhesive spray bottles, one bottle having glitter powder, one green foil paper roll, one glittering foil paper roll, one LED lamp, 08 plastic containers having ink, one plastic box having white colour paint, one box containing 05 LED lights with wires, 2 laptops, 2 printers used for preparing FICN and cash of Rs.1,89,000/ were recovered. A report from the Currency Note Press (Devas) (in short, 'CNP') has also been received, which opines that the notes recovered are fake.

5. The learned counsel for the applicant submits that in the present case, the applicant had been arrested on 21.06.2023. The charge-sheet, though filed on 16.09.2023, itself records that the raw material, laptops and mobile phones, allegedly recovered, were still to be sent to FSL. She submits that the charge-sheet is, therefore, incomplete and the applicant is entitled to default bail under Section 167(2) Cr.P.C. In support of the above submission, she also places reliance on the judgment of the Supreme Court in *Arif Khan v. State (NCT of Delhi)*, 2023 SCC OnLine SC 1253.

6. She further submits that even otherwise, the applicant is entitled to be released on bail inasmuch as the petitioner has already been in custody for the last more than six months. The investigation otherwise is complete and the charge-sheet is filed. She submits that the passport of the applicant is already seized and therefore, there is no risk of him evading the trial.



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She further submits that there is no independent witness to the alleged recovery. The material allegedly recovered was all planted on the applicant.

7. She further submits that even though the allegations made against the applicant may be grave, the same cannot be a reason for denying bail to the applicant. In support, she places reliance on the judgment *P. Chidambaram v. Directorate of Enforcement*, (2020) 13 SCC 791.

8. On the other hand, the learned APP, placing reliance on the judgment of this Court in *Sanjay Kumar Pundeer v. State of NCT of Delhi*, 2023:DHC:6683, submits that merely because the report of the FSL is awaited, it cannot be said that the charge-sheet is incomplete, entitling the accused to be released on default bail under Section 167(2) of the Cr.P.C. He further submits that, in the present case, the currency notes that were recovered from the applicant were found to be fake as established by the CNP Report (Devas). He submits that other incriminating materials were also recovered from the applicant from his residence. He submits that the submissions made by the learned counsel for the applicant are subject matter of trial, and looking into the gravity of the allegations made against the applicant, he is not entitled to be released on bail.

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

10. In *Sanjay Kumar Pundeer* (Supra), a Coordinate Bench of this Court, on the applicability of Section 167(2) of the



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Cr.P.C. in case the FSL has not been received, has held that mere non filing of the FSL is not sufficient to conclude that the charge-sheet so filed was incomplete. The said report can be filed by way of a supplementary charge-sheet. A similar view has been taken by another Coordinate Bench of this Court in ***Rahima v. The State GNCT of Delhi***, 2023:DHC:6871.

11. In ***Arif Khan*** (Supra), the Supreme Court had released the applicant therein on bail observing that the question of the accused having an accrued right to seek statutory bail as the charge-sheet was unaccompanied by FSL report, was pending in a batch of petitions. In my view, the same was in the peculiar facts of that case and cannot come to the aid of the applicant herein.

12. In the present case, the case of the prosecution is also based on the CNP Report (Devas) received on the currency notes that were allegedly recovered from the applicant. There is also an allegation of other incriminating material being recovered from his premises, as has been referred to hereinabove.

13. In my view, therefore, the applicant, only because of non obtaining of the FSL report, is not entitled to the benefit of Section 167(2) Cr.P.C. for grant of statutory bail.

14. On merits, the submissions made by the learned counsel for the applicant are to be tested during the course of the trial before the learned Trial Court and not at the stage of seeking bail. While it is true that the mere gravity of the offence may



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not be sufficient to deny the bail to the applicant, it would be one of the circumstances that the Court would have to take into account while considering the application of the applicant for release on the bail.

15. For the present, as noted hereinabove, the prosecution case presents a grave offence being committed by the applicant. There is also incriminating material recovered from the applicant, who is a foreign national.

16. For the reasons stated hereinabove, I do not find any merit in the present application. The same is accordingly dismissed. The pending application is also disposed of.

17. Needless to state, any observation made herein above shall not be considered as an expression on merit on the allegations made against the applicant.

NAVIN CHAWLA, J

JANUARY 23, 2024/rv/ss

[Click here to check corrigendum, if any](#)