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

+ BAIL APPLN. 4335/2023, CRL.M.(BAIL) 1831/2023, CRL.M.As.
35514/2023 & 4847/2024

RAJ KUMAR NAYYAR

..... Petitioner

Through: Mr. Harshit Thareja, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Laksh Khanna, APP for State
with SI Amit Kumar, ISC/Crime
Branch.

Mr. Mukesh Gupta, Advocate for
complainant.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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14.02.2024

1. Second application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C') for grant of regular bail has been preferred on behalf of the petitioner in FIR No. 215/2021, under Section 419/420/34/120B IPC, registered at P.S. Crime Branch, New Delhi.
2. The detailed facts have been referred in order dated 31.10.2022 passed by this Court whereby Bail Application No. 1693/2022 was dismissed and are not repeated herein for sake of brevity.
3. Learned counsel for the petitioner submits that the accused is in custody since 10.11.2021. Further, despite filing of the chargesheet on 08.01.2022 and framing of charges on 20.10.2022, the trial has not proceeded further. It is submitted that notice under Section 41A Cr.P.C. was



not served to the petitioner and there has been a misrepresentation of the factual position by the prosecution, since petitioner had only received an amount of Rs.19 lacs on behalf of his brother, which he is ready to return. It is further urged that during the course of proceedings, there had been a settlement between the parties for Rs.1.5 Crores, which itself reflects that the allegations of cheating of Rs.3.90 Crores are incorrect. It is prayed that since conclusion of trial is likely to take some time, the petitioner be released on bail. Reference is also made to page 26 of the petition to contend that substantial questions of law arise for consideration.

Reliance is also placed upon ***Rakesh Kumar vs. Vijayanta Arya (DC) & Ors.***, 2021 SCC OnLine Del 5629, ***Vijay Kumar Ghai & Ors. vs State of West Bengal & Ors.***, (2022) 7 SCC 124, ***I.A. No. 2 of 2023 in Criminal Appeal No. 305 of 2015, Babu Singh & Ors. vs. State of U.P.***, (1978) 1 SCC 579, ***Moti Ram & Ors. vs. State of Madhya Pradesh***, (1978) 4 SCC 47, ***P. Chidambaram vs. Directorate of Enforcement***, (2020) 13 SCC 791, ***Bhulabai vs. Shankar Barkaji***, 1999 (3) Mh.L.J. 227 and ***Baiju alias Bharosa vs. State of Madhya Pradesh***, (1978) 1 SCC 588.

4. On the other hand, the application for bail is vehemently opposed by learned APP for the State assisted by learned counsel for the complainant. The matter was considered in detail, vide order dated 31.10.2022, whereby the first application of the petitioner was declined, after filing of chargesheet. There is no material change in circumstance after the dismissal of the first application. Learned APP for the State on instructions from Investigating Officer also submits that the supplementary chargesheet against the co-accused, who was earlier absconding and is now on bail, will be filed within a period of four weeks and thereafter the witnesses can be



examined.

Considering the grave nature of allegations and role of accused, no grounds for bail are made out. The authorities cited by learned counsel for the petitioner are distinguishable on facts. Application is accordingly, dismissed.

Nothing stated herein shall tantamount to expression of opinion on the merits of the case. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J

FEBRUARY 14, 2024/akc