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

Date of decision: 11.01.2024

\+ **BAIL APPLN. 4364/2023**

PREETI ANAND ..... Applicant

Through: Mr.Rajat Wadhwa, Mr.Amulya Dhingra, Ms.Dhretti Bhatia, Mr.Abhishek Dev and Mr.Surpreet Singh Gill, Advs.

versus

STATE (NCT OF DELHI) ..... Respondent

Through: Ms.Priyanka Dalal, APP for the State alongwith SI Roshan Lal Ms.Somaya Gupta and Mr.Kumar Vaibhav, Advs. for complainant/informant.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This application has been filed under Section 438 of the Code of Criminal Procedure Code, 1973 seeking anticipatory bail in FIR No. 0254/2022 registered at Police Station: Kalkaji South-East, Delhi under Sections 420/468/471/120B of the Indian Penal Code, 1860 (in short, 'IPC'). Section 467 IPC was also added later.

2. It is the case of the prosecution that the complainant, Mr.Surender Mohan, filed a complaint stating that he had received letters dated 08.01.2020 and 15.01.2020 from the Punjab National

Bank, Kalkaji Branch (in short, 'PNB') with regard to an alleged term loan account in the name of one M/s. Harpreet Impex, which was stated to be a partnership firm of which he was alleged to be one of the partners. He denied having any connection with the said firm or having availed or taken any such loan. On inquiry, it was found that his Aadhaar Card and Pan Card has been misused *inter alia* by the applicant herein for claiming that he was a partner in the said firm and a Partnership Deed allegedly bearing complainant's signatures was produced before the bank. The Partnership Deed bore a photograph of a different person. It is further alleged that the term loan got sanctioned by mortgaging a flat which, in fact, stood in the name of the daughter of the complainant, who has been residing in London. It was further alleged that the said property, in fact, had already been sold by him, as a Power of Attorney of his daughter, to a third party on 24.08.2018.

3. He further stated that he had been approached in the year 2017-18 by a property dealer, namely, Mr.Manish, to sell the above property. The complainant entered into negotiation with one Mr.Ravi Gehlot and his wife Mrs.Kiran Gehlot, who are also the accused in the present FIR. The complainant alleges that he had handed over the property papers of the said property along with a copy of his Aadhaar Card, copy of the Passport, and the Pan Card of his daughter, to Mr.Ravi Gehlot as he had represented that he would require a loan for purchasing the said property. The complainant alleged that misusing the said papers, the above loan transaction was entered into by the accused in connivance with each other.

4. Further, investigation has revealed that the alleged Partnership Deed showed the applicant herein as one of the partners of M/s Harpreet Impex. It alleged to have been further revealed that the applicant along with her husband, Mr.Deepak, a co-accused, had applied for the alleged loan on the basis of allegedly forged and fabricated documents in the name of the Partnership Firm, and had obtained an overdraft limit of Rs.1.30 Crores from the PNB. An amount of Rs.2,50,000/- was also transferred into the account of the applicant herein, and later, she received another amount of Rs.2,05,000/- from the co-accused, that is, Mr.Ravi Gehlot.

5. The learned counsel for the applicant submits that the allegations against the applicant are all based on documentary evidence. All such documents have already been retrieved by the prosecution and, therefore, there is no need for a custodial interrogation of the applicant. He further submits that, pursuant to the *interim* bail granted by this Court vide Order dated 29.12.2023 in the present proceedings, the applicant has duly joined the investigation and she undertakes to join the investigation as and when called.

6. He submits that as per the Status Report, the custodial interrogation of the applicant is required also to obtain her signatures and handwriting, which she is willing to give voluntarily to the prosecution and, therefore, again, there is no necessity for custodial interrogation of the applicant.

7. He submits that the entire case against the applicant is based on the alleged disclosure statements made by the co-accused, which

would, in any case, be not admissible in view of Section 27 of the Indian Evidence Act, 1872.

8. He further submits that the applicant is a woman having roots in the society and is not a flight risk. She also has to take care of two children and, therefore, it would be in the interest of justice that she be granted an anticipatory bail.

9. He submits that the prosecution has relied upon an earlier FIR registered in which the applicant is again arrayed as a co-accused, however, the dispute giving rise to the said FIR has already been settled by the applicant with the complainant/informant therein. He submits that, therefore, the said FIR cannot be a reason to deny anticipatory bail to the applicant.

10. In support of his submissions, the learned counsel for the applicant places reliance on the judgments of the Supreme Court in ***Santosh s/o Dwarkadas Fafat v. State of Maharashtra*** (2017) 9 SCC 714; and of this Court in ***Ankit Narang v. State, Govt. Of NCT of Delhi*** 2022 SCC OnLine Del 734; and ***Sangeeta Bhatia v. State of NCT of Delhi*** 2022 SCC Online Del 464.

11. The learned counsel for the applicant further submits that as far as the receipts of the amount of Rs.2,50,000/- from the partnership firm and Rs.2,05,000/- from the co-accused, namely, Mr.Ravi Gehlot, is concerned, as per the case of the prosecution itself the said amounts had been later transferred to the husband of the applicant, that is, Mr.Deepak Anand, who is already in custody.

12. On the other hand, the learned counsel for the State, and the learned counsel for the informant/complainant, submit that the prosecution is yet to unearth the full extent of the conspiracy. They submit that the applicant had earlier not appeared pursuant to the notices that were issued to her, and Non-Bailable Warrants had to be issued for seeking her production. It is only at that stage that the applicant filed the present application. They submit that the applicant can be termed as a habitual offender inasmuch as the earlier FIR is also lodged on similar allegations against the applicant. The applicant is also the beneficiary of the ill-gotten money that was received pursuant to the conspiracy hatched in the present matter.

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

14. The allegations made against the applicant are rather severe. As noted hereinabove, it has been alleged that she actively connived along with the co-accused in projecting herself to be a partner along with the complainant/informant to obtain an overdraft facility from the bank. In the said transaction, the property belonging to the daughter of the complainant was mortgaged illegally without any authority. The complainant/informant has stated that the said property, in fact, stood sold to a third party prior to the date of the transaction. This would involve multiple victims facing consequences for the acts of the conspiracy that has been alleged against the applicant. The entire extent of this conspiracy and the manner of its execution are yet to be unearthed fully by the prosecution.

15. Though, the learned counsel for the applicant has submitted that the amount that was received by the applicant from the partnership firm and from the co-accused, stood transferred to her husband, presently it cannot be denied that she did first receive this money. What was her exact role in the same can only be unearthed by further investigation.

16. Added to this is a fact that she earlier tried to evade investigation and Non-Bailable Warrants had to be issued for seeking her production.

17. In addition to the above, the prosecution alleges that there is another FIR with similar allegations against the applicant. Though, the applicant states that the dispute giving rise to the said FIR has been settled with the complainant/informant therein and has placed a settlement deed on record in support of this assertion, in my view, this itself would give rise to a suspicion that similar *modus operandi* has been used by the applicant in more than one case. The possibility of more cases being there where the applicant is involved, can also not be ruled out. The same would again require custodial interrogation of the applicant.

18. Only being a woman cannot grant additional protection or rights to the accused.

19. In view of the above, I find no merit in the present application and the same is dismissed.

20. Needless to state, any and all observations made hereinabove are confined to the consideration of the present application and shall not, in any manner, be represented as an expression of any final opinion of this Court and shall not prejudice the applicant in any future proceeding emanating from the above FIR.

21. The application is disposed of in the above terms.

NAVIN CHAWLA, J

JANUARY 11, 2024/ns/RP

Click here to check corrigendum, if any