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

% ***Date of Decision: 04.01.2024***

\+ **BAIL APPLN. 19/2024**

MS. TANNU ..... Petitioner

Through: Mr. Mitthan Lal, Mr. Mohit and Mr. Vipin Gupta, Advocates.

versus

THE STATE GOVT.OF NCT DELHI AND ANR. ..... Respondents

Through: Mr. Manoj Pant, APP for State with SI Ramesh, P.S. Nihal Vihar.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.*(ORAL)*

1. The instant application under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 (*'Cr.P.C.'*) has been filed on behalf of applicant seeking grant of anticipatory bail, in case FIR bearing no. 408/2023, registered at Police Station Nihal Vihar, Delhi for the offences punishable under Sections 406/419/420/120B/34 of Indian Penal Code, 1860 (*'IPC'*).

2. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of State.

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3. Brief facts of the present case are that the complainant Sh. Jaikishan Sharma, who is owner of the property in question, was contacted by the present accused Tannu and co-accused Aviral Rastogi. Both of them had assured him to arrange loan amount for his mortgaged property and had obtained his signatures on blank cheques.When the complainant had shown his willingness to sell his another property, the present accused/applicant and co-accused had contacted another co-accused Surender Beniwal to purchase the same and original property documents were handed over to co-accused Aviral Rastogi in presence of applicant Tannu. On 07.07.2021, a sale deed was executed in favour of co-accused Rajesh Beniwal and on 22.07.2021, the complainant had asked the accused persons to clear all the dues, however, they had refused to pay the same. On 30.07.2021, the complainant had come to know that accused persons had misused the cheques given by him for arranging loan amount. It was further stated that amount of Rs. 70 lakhs, which was credited in his bank account, was deducted through aforesaid cheques and the said amount was transferred in the account of Shyam Plastic, Jai Ho Overseas and Deepak Plastic Companies by using his cheque which had been taken by co-accused Aviral Rastogi at the time of deal. The accused persons had used the cheques of the complainant to withdraw the payment from his account and the present applicant used to fill the bank slips/papers to withdraw the amount from the bank account of the complainant in conspiracy with co-accused Aviral Rastogi. On these allegations, the present FIR was registered.

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4. Learned counsel for the present accused/applicant argues that the applicant has clean antecedents and no other case is pending against her. It is contended that the applicant has been falsely implicated in the present case and there is no incriminating material available on record against her. It is further argued that the applicant was working as financial advisor in partnership with co-accused Aviral Rastogi and that there is no requirement of custodial interrogation of the applicant. It is also stated that the applicant has not received any money from the complainant as well as from other co-accused persons at any point of time. It is also submitted that civil litigation is pending between the parties and therefore, anticipatory bail be granted to the applicant.

5. Learned APP for the State, on the other hand, argues that the allegations against the present applicant are serious in nature and her custodial interrogation is necessary for recovery of the remaining bank cheques of the complainant and to verify the handwriting on the bank slips and cheques. It is further submitted that the applicant has been absconding and Non-Bailable Warrants (NBWs) have already been obtained against her, and now, the proceedings under Section 82 of Cr.P.C. have also been initiated. Therefore, it is prayed that present application be dismissed.

6. This Court has heard arguments addressed by learned counsel for the applicant/accused as well as learned APP for the State, and has perused the material on record.

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7. In the present case, the role assigned to the present accused/applicant is specific in nature, and she was allegedly involved in the entire offence from the time of approaching the complainant to execution of the sale deed as well as obtaining blank cheques after signatures. There are specific allegations that the present accused/applicant along with co-accused had approached the complainant, who was in some financial crises, and had mortgaged his property with Tata Capital Financial Services Ltd. by depositing his original property document and had taken loan of Rs. 3 crores from the financial company. There are specific allegations that the present accused/applicant along with the co-accused had contacted and assured the complainant to arrange entire loan amount from another NBFC Bank, and had taken signatures of the complainant on blank cheques. The complainant was further coerced to sell another property belonging to the complainant at Kuwar Singh Nagar, Delhi and the original documents of the property were handed over by him to co-accused Aviral and the present accused/applicant Tannu. The sale deed was executed on 07.07.2021 in favour of one Rajesh Beniwal. On 22.07.2021, the complainant hadmet the accused person who had bought the property and when he had asked them to pay the amount, they had refused to pay the same. Further, on 30.07.2021, the complainant had come to know that the present applicant and co-accused persons had misused the cheques given by him to them for arranging the loan amount. There are also further allegations that Rs. 70 lakhs was credited in his bank account, however, the same was

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withdrawn from his bank account through cheques given by him to the present accused/applicant and the amount was transferred in the account of Shyam Plastic, Jai Ho Overseas and Deepak Plastic Companies.

8. This Court is of the opinion that investigation in the present case is pending and the present accused/applicant has not joined investigation and is absconding. Process under Section 82 of Cr.P.C. has already been initiated against her and her custodial interrogation is required to recover the remaining blank cheques of the complainant and also for the purpose of verifying handwriting of the bank slips and cheques which were used by her to withdraw money from the bank account of the complainant, and for the purpose of further investigation.

9. Considering the specific allegations enumerated herein, the fact that proceedings under Section 82 of Cr.P.C. have been initiated against her since she has not joined investigation,the documents in question are in the handwriting of the present accused/applicant, there are specific allegations of conspiracy and her role has been specifically defined in the FIR, and since her custodial interrogation is required for the purpose of confronting her with the co-accused and as to how the conspiracy was executed, this Court finds that it is not a fit case for grant of anticipatory bail. Further, this Court also takes note of the fact that during investigation, it has also been revealed that a civil case is also pending between the parties and the co-accused has availed loan against the property in question from

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another financer, therefore, detailed investigation in the matter is still required to be conducted.

10. Accordingly, the present bail application stands dismissed.

11. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 4, 2024/zp

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