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

+ **BAIL APPLN. 84/2024**

YOGESH SINGH

..... Petitioner

Through: Mr. Gaurav Kumar, Advocate with
Petitioner in person (through VC).

versus

STATE GOVT. NCT OF DELHI

..... Respondent

Through: Ms. Richa Dhawan, APP with SI
Shailendra, PS: Bharat Nagar, for
State.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER
22.03.2024

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1. This application has been preferred on behalf of the Applicant for grant of anticipatory bail under Section 438 Cr.P.C. read with Section 482 Cr.P.C. in case FIR No.757/2023 dated 07.09.2023 under Section 364A registered at PS: Bharat Nagar.

2. By an order dated 08.01.2024, this Court had granted interim protection to the Applicant against coercive steps being taken against him, subject to the Applicant joining investigation, as and when directed by the IO and rendering co-operation therein. When the application was listed on 06.02.2024, it was pointed out by learned APP for the State, relying on the Status Report that Applicant was not joining investigation. Refuting this submission, learned counsel for the Applicant had stated that he was called



for investigation by the IO on 19.01.2024, however, IO was not available on the said day and Applicant was asked to appear on 20.01.2024, on which date the Applicant appeared and joined investigation. Thereafter, IO instructed the Applicant to appear on 25.01.2024 but the Applicant could not appear as the intimation was given only on 24.01.2024 evening and more importantly, Applicant was in Mumbai where his wife, who was diagnosed with cancer, was hospitalized and undergoing treatment. Believing this submission to be correct, the Court directed the Applicant to join investigation on 15.02.2024, a date that was given by the IO, who was present in Court.

3. In the meantime, an updated Status Report has been filed by the State wherein it is stated that the Applicant is not co-operating in the investigation. Additionally, a detailed narrative of the investigation conducted so far *qua* the Applicant and other co-accused persons has been furnished in the Status Report. Learned APP, however, lays emphasis on the latest Status Report dated 11.03.2024 and highlights that the Applicant is not co-operating in the investigation and is a flight risk. Attention of the Court is drawn to paragraph 5 of the Status Report, which is extracted hereunder for ready reference:

“5. It is further submitted that as per the order dated 08.01.2024 of Hon’ble Delhi High Court the applicant/accused had to join the investigation and as per the order he joined the investigation on 20.01.2024 late night and again Notice U/S 41(A) Cr.P.C. was served to the applicant on his Mobile No. 9376130002 to join the investigation on 05.02.2024, but he did not join the investigation. The counsel of the applicant/accused stated in Hon’ble Delhi Court that the applicant did join the investigation as per order dated 08.01.2024 that his wife was admitted in Hospital in Mumbai due to a serious disease i.e. Cancer. On the same day the applicant handed over medical treatment paper of his wife to undersign. On perusal of medical papers, it was revealed that wife of applicant/accused was admitted in Mumbai in the year



2020. As per medical papers handed over by the applicant/accused, his wife was taken treatment from Haria L.G. Rotary Hospital, G.I.D.C. Vapi (Gujarat). The medical papers of the hospital was got verified and as per the hospital authorities, applicant/accused's wife was never taken any treatment on 05.01.2024 and 27.01.2024 from the hospital. Verification report dated 03.03.2024 is annexed here as annexure-1.

It is further stated that report dated 12.08.2023 (annexure-02) and report dated 05.01.2024 (annexure-03) are same. Each word of clinical diagnosis report are same. Even VHID-HRD 0089466 and Radiology ID-525667 are same. On perusal of both report, it seems that report dates are changed deliberately.

On perusal of clinical pathology reports dated 22.07.2023 and 27.01.2024 (annexure-4 & 5), it's again seems that report dates are deliberately changed. The applicant/accused submitted fake treatment papers before this Hon'ble Court."

4. Copy of the Status Report was served on the counsel for the Applicant who had been appearing in the matter on the earlier dates and the contents were well known to the counsel and the Applicant. Applicant has today engaged a new counsel, who states that he has filed a vakalatnama today but the same is not on record and that he is unaware of the earlier proceedings before this Court. On a pointed query on the allegations in the Status Report with regard to making false statements before this Court and allegedly forging medical documents given to the IO for verification, learned counsel states that he is not in a position to respond as he has been engaged only now and in any case, he will not be in a position to comment on hearings that took place when he was not engaged by the Applicant.

5. The contents of the Status Report, do indicate a very sorry state of affairs. Applicant was granted interim protection by this Court so that no coercive steps are taken against him if he joins investigation and co-operates. Applicant, through his counsel, sought to explain his non-joining the investigation on 25.01.2024 stating that he was attending to his wife,



who was hospitalized for treatment of cancer. This Court had no reason to disbelieve this statement of the Applicant as one would like to believe that no person would ordinarily make an excuse of this nature only to seek bail or to justify his not joining the investigation. Status Report, however, indicates that the Applicant not only gave a false statement to the Court but also allegedly fabricated and forged medical documents, which he was to furnish to the IO for verification. In my considered view, this is a serious misconduct which needs to be deprecated. There is no scope for debate that a person who does not come to the Court with clean hands is not entitled to any relief and this becomes pronounced when the Applicant seeks to invoke discretionary power of the Court. On account of the conduct of the Applicant, as forthcoming from the Status Report, which is uncontroverted, coupled with the fact that even today the stand of the State is that the Applicant is not co-operating in the investigation, this Court is not inclined to grant anticipatory bail to the Applicant.

6. The application is accordingly dismissed and the order granting interim protection is vacated.

7. Application stands disposed of.

8. At this stage, learned counsel for the Applicant points out that the Applicant has joined the proceedings virtually and has heard the order.

JYOTI SINGH, J

MARCH 22, 2024

B.S. Rohella