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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3383/2024**

ASHMINDER KAUR

.....Applicant

Through: Ms. Jahanvi Worah & Mr.
Rajat Oswal, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI)

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State.
SI Vandana DIU West
District, PS Punjabi Bagh.
Mr. Bharat Gupta, Mr.
Varun Tyagi, Mr. Ishan
Srivastava & Mr. Saurabh
Khanijon, Advs. for
complainants.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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19.09.2024

CRL.M.A. 28273/2024

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 3383/2024

3. The present application is filed seeking pre-arrest bail in FIR No.876/2023 dated 07.12.2023, registered at Police Station Punjabi Bagh, for offences under Sections 419/ 420/ 467/ 468/ 471/ 120B of the Indian Penal Code, 1860 ('IPC').
4. The FIR was registered on a complaint alleging that the property which belonged to the complainant was sought to be illegally mortgaged by forging the documents. The complainant alleged that the property bearing No. 47/35, Punjabi Bagh West, New Delhi (hereafter '**subject property**') is owned by the



complainant through a Will executed by Mr. Prem Prakash Gupta in favour of Anand Prakash Bansal and the complainant. It is alleged that on 12.03.2022, the complainant was surprised to find out that one person from Jana Bank had come to inspect the subject property. The said person, on being asked, stated that one company, namely, Kapish Info Links Pvt. Ltd., has applied for a loan against the subject property. The loan was applied on the basis of a sale deed dated 12.12.1980 in favour of Jaswant Singh. The said sale deed showed that Mr. Prem Prakash and Ms. Champa Devi had sold the property to Jaswant Singh. During investigation, it was found that the Aadhaar Card of the said Jaswant Singh was not genuine. The number of the Aadhaar Card mentioned was found to be in the name of another person, namely, Balraj Singh Sandhu r/o Farm No.4, Mulberry Avenue, DLF Chhatarpur, Delhi. One account was found to be linked with the said number of the Aadhar Card in the name of Balraj Singh Sandhu.

5. At the address of Farm No.4, Mulberry Avenue, DLF Chhatarpur, Delhi, one person, namely, Ravinder Ahuja, was found, who stated that he was the owner of the same.

6. It was also found that the mobile number linked with the Aadhar Card of Balraj Singh Sandhu was in the name of one D.S. Sethi. Aadhaar Card number of the D.S. Sethi was found to be the same as the Aadhaar number of Jaswant Singh and Balraj Singh Sandhu. The applicant is the daughter of D.S. Sethi.

7. During investigation, it was found that a sum of ₹5,00,000/- was transferred from the account of Balraj Singh Sandhu to the applicant.

8. The learned counsel for the applicant submits that the applicant has been unnecessarily implicated in the present case so as to put pressure on the family.



9. She submits that only because the applicant happens to be the daughter of the accused D.S. Sethi, the same cannot be a ground to implicate the applicant.

10. She further submits that the State already has all the material on record which shows that a sum of ₹5,00,000/- was received by her from the account of Balraj Singh Sandhu.

11. She submits that the applicant is neither the beneficiary of the forged documents nor is she the recipient of any alleged cheated amount.

12. The learned Additional Public Prosecutor ('APP') for the State submits that the applicant was called for investigation but she has not cooperated and is not revealing the whereabouts of the accused D.S. Sethi.

13. He further submits that the CDR of the applicant further shows that she is in constant touch with the accused D.S. Sethi who is absconding.

14. He submits that during the interrogation, she stated that the sum of ₹5,00,000/- received in her account might be her earning from professional work carried out by her, however, the amount has admittedly been transferred from the account which was in the name of Balraj Singh Sandhu. He submits that it is apprehended that Balraj Singh Sandhu and D.S. Sethi are the same people.

15. I have heard the counsel and perused the record.

16. In the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra : (2011) 1 SCC 694***, the Hon'ble Supreme Court dealt with the issue of pre-arrest bail, and the balance that needs to be maintained while granting the same to an accused and further laid down the factors that must be taken into consideration while dealing with pre-arrest bail and held as under:

“...112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:



- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail...”*

17. In the present case, it is alleged that there was an attempt to fraudulently mortgage the subject property on the basis of a forged Sale Deed in favour of Jaswant Singh. While no direct



role is assigned to the applicant, it is alleged that she had received a sum of ₹5,00,000 from the account in the name of Balraj Singh Sandhu and that she had not disclosed the whereabouts of accused D.S. Sethi, who is her father.

18. The allegations against the applicant, even if taken at the highest, are not for executing the forged documents in regard to the subject property. It is also not the case of the prosecution that the applicant has benefited in any manner out of the alleged forgery.

19. While the allegations and defences in this regard are a matter of trial, it cannot be denied that the trail regarding transfer of ₹5 lakhs in the applicant's account is already with prosecution. There is no material, at this stage, to link her to the offence of forgery.

20. It is not in doubt that order for grant of bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined the investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

21. The purpose of custodial interrogation is to aid the investigation and is not punitive.

22. The applicant being the daughter of the said accused cannot be subjected to incarceration merely because she has been unable to disclose his whereabouts.

23. The applicant is a woman. The Bharatiya Nagarik Suraksha Sanhita, 2023 recognizes that special consideration has to be accorded to women while considering their bail applications.

24. In view of the above, this Court is of the opinion that the



custodial interrogation of the applicant is not required. It is directed that in the event of arrest, the applicant be released on bail on furnishing a personal bond of ₹20,000/- with two sureties of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicant will not leave the boundaries of the country without informing the IO/ SHO concerned;
- c. The applicant shall not contact the witnesses or tamper with the evidence in any manner;
- d. The applicant shall give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times;
- e. The applicant shall provide the address of her residence to the IO/SHO and shall not change the same without informing the concerned IO/SHO.

25. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.

26. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.

27. The bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 19, 2024

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