



2024:DHC:7207



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

% Judgment\_Delivered on 19.09.2024

+ CRL.M.C. 7418/2024 &amp; CRL.M.A. 28343/2024

PRAKASH GODBHOLE

.....Petitioner

versus

STATE (NCT OF DELHI) &amp; ANR.

.....Respondents

**Advocates who appeared in this case:**

For the Petitioner: Mr. Rahul Kumar and Mr. Mantosh Kumar,  
Advocate.

For the Respondent: Mr. Sanjeev Sabharwal, APP for State with SI  
Pradeep, Mehrauli.  
SI Sompal Singh, PS Prasad Nagar  
Mr. Rajal Rai Dua, Advocate for R-2

**CORAM:****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)**

1. This a petition under Section 482 Cr.P.C., 1973 (erstwhile) r/w Section 583, Bhartiya Nagarik Suraksha Sanhita Act, 2023 seeking a direction to the Investigating Officer to not harass the petitioner under the guise of investigation in respect of offences registered FIR No. 244/2024 dated 19.02.2014 registered under Sections 420/468/471/120B of IPC, 1860, PS Mehrauli and other appropriate directions.

2. Learned counsel appearing for the petitioner submits that though the

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FIR is stated to have been registered on 19.02.2014, the petitioner was never summoned for the purposes of investigation till the year 2024. He states that on and from 04.06.2024 through till 10.09.2024, there has been at least 10 summonses issued to the petitioner in quick frequency, not giving him enough time to reach Delhi in order to answer the said summonses. He states that the petitioner admittedly is a resident of Bangalore, State of Karnataka. It is also known to the investigation authorities that the petitioner is a government servant. He states that keeping in view the status of the petitioner, it is not easy for the petitioner to take leave so frequently from the employer for answering the summonses. He states that the petitioner had made numerous requests that sufficient time to appear and answer the summonses be given to him which apparently had not been responded to. He states that repeated calling of the petitioner to Delhi for joining investigation is causing harassment to him. He states that in view of the suffering and harassment, this Court may pass appropriate directions to the IO.

3. Mr. Sabharwal, learned APP for the State refutes the submissions made by learned counsel appearing for the petitioner. He states that there are serious allegations of siphoning off funds and misappropriation of money running into crores. He also states that the petitioner, even though summoned number of times, has been absolutely unresponsive and non-cooperative during investigation process. He states that the primary reason for being called frequently is the non-cooperative attitude of the petitioner.

4. Mr. Sabharwal also states, after perusing the records maintained by the IO, that the summons were issued initially in the year 2015 to the petitioner which were not answered by the petitioner. He states that the wife of the



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petitioner had refused to accept the summons and despite this knowledge being available with the petitioner, he never responded to the same. He states that the past conduct also has a bearing on the present case. Besides, he states that summons were also sought to be served in the year 2017 by way of speed post which was returned back as undelivered. From the aforesaid facts, Mr. Sabharwal seeks to submit that the past conduct of the petitioner does not entitle him to any discretionary relief by this Court.

5. Mr. Dua, learned counsel for the respondent no.2/complainant hands over copies of various status reports as also orders passed by the learned Trial Court in regard to the bail application filed by the petitioner herein. The same are taken on record. In particular, he draws attention of this Court to the order dated 23.07.2024 which is at page 19 of the said compilation, to submit that the learned Trial Court was sensitive to the fact that previous Investigating Officers have not conducted investigation properly since the year 2014 and as a result, it had directed the DCP, South to monitor the investigation personally. That apart, learned counsel also invites attention to the said order to submit that the petitioner was directed to join investigation on every alternate day or on the day as required by the IO.

6. In the rebuttal, learned counsel appearing for the petitioner states that none of what has been submitted on behalf of the State finds substance in the form of records.

7. This Court has considered the arguments of learned counsel for the parties.

8. There is no doubt that while an investigation is pending, the Courts



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ordinarily would not interdict such proceedings and leave it to the Investigating Officer to take steps which are required to be taken for conducting and completing the investigation of a criminal offence. However, the same would not mean that a person could be put to any harassment or trouble.

9. This Court has perused the entire record and on that basis, the timeline of the dates of summons and dates of reporting have been culled out in form of a chart. The same is brought out hereunder:-

| Date of Summons            | Date of Report | Date of petitioner joined the report  |
|----------------------------|----------------|---------------------------------------|
| 04.06.2024                 | 10.09.2024     | 09.06.2024                            |
| 15.06.2024                 | 16.06.2024     | Not joined                            |
| 06.07.2024                 | 07.07.2024     | 07.07.2024                            |
| 18.07.2024                 | 21.07.2024     | 22.07.2024                            |
| 27.07.2024 (Not on record) | 29.07.2024     | 29.07.2024                            |
| 31.07.2024                 | 03.08.2024     | 03.08.2024                            |
| 14.08.2024 (Not on record) | 17.08.2024     | 17.08.2024                            |
| 01.09.2024                 | 04.09.2024     | 04.09.2024                            |
| 10.09.2024                 | 12.09.2024     | 12.09.2024<br>(Asked to provide docs) |

10. The aforesaid table would indicate that the summons have been issued very frequently, particularly, from 04.06.2024 through till 10.09.2024. It is also apparent that the petitioner, who is a resident of Bangalore, is not being provided with sufficient time to reach Delhi to join the investigation. That



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apart, it is also not disputed that the petitioner is a government employee and has to also seek leave from his employer every time he has to attend the investigation process in Delhi.

11. So far as order dated 23.07.2024 of the learned Trial Court to which Mr. Dua had invited attention is concerned, this Court is not commenting on the observations made therein. It is expected that the petitioner shall cooperate with the Investigating Officer every time he is summoned.

12. In that view of the matter, IO can give some reasonable time for the petitioner to reach Delhi in order to join investigation in response to the summonses so issued.

13. It is trite that a person is deemed to be innocent unless proven guilty and as such, as of today, the petitioner is a citizen who can avail the benefits of invoking his rights by filing a petition under Article 226 of the Constitution of India, in case he is apprehending fetters to his independence.

14. In view of the aforesaid, this Court is of the considered opinion that the petitioner be given sufficient time to approach Delhi in order to answer the summons and for joining the investigation. Accordingly, the IO is directed to issue a notice giving seven (7) days time to the petitioner to join investigation in Delhi from Bangalore. Additionally, on the assurance and undertaking of the learned counsel for the petitioner, on instructions, that the petitioner is willing to remain available in answer to the summonses for at least two days continuously in Delhi, the IO is at liberty to ask the petitioner to join investigations for two days continuously, if so required. However, this would not curtail the authority of the Investigating Officer to further call for the



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petitioner in case the situation warrants further investigation. The directions as stated above shall be continued for the future summonses also, if so issued. In the same breath, the petitioner is also given liberty to approach this Court in case there is any apprehended violation of his rights in this regard.

15. In view of the aforesaid directions and the undertaking given by the petitioner, the petition is disposed of.

**TUSHAR RAO GEDELA, J**

**SEPTEMBER 19, 2024**

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