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

+ **BAIL APPLN. 3466/2024, CRL.M.A. 29038/2024 & CRL.M.A. 29039/2024**

NAVIN SURANA

.....Applicant

Through: Mr. Aadil Singh Boparai,
Mr. Saurabh Dev Karan
Singh, Ms. Pragya
Dhouniyal & Mr.
Abhishek Dubey,
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar
Chahar, APP for the State.
Mr. Ashesh Lal, Ms.
Shikha Walia & Ms.
Rekha Lal, Advocates for
Complainant.
SI Tarun Kumar (P.S.
Civil Lines).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

11.11.2024

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1. The present application is filed seeking pre-arrest bail in FIR No. 226/2023 dated 08.04.2023, registered at Police Station Civil Lines, for offences under Sections 380/457 of the Indian Penal Code, 1860.

2. The FIR was registered alleging that a courier was sent by the complainant's brother, namely, Roshan Surana, containing property documents. However, the courier was received by the

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applicant and the documents contained in the said courier were misused.

3. It is alleged that the courier contained one certified copy of the MoU between the complainant and his brother in respect of their parent's property and one general power of attorney executed by Roshan Surana in favour of the complainant in regard to the certain property situated in Rajasthan.

4. The learned counsel for the applicant submits that false allegations have been made against the applicant.

5. He submits that, admittedly, the parties are involved in multiple cases in regard to common properties. The parties are related to each other.

6. He further submits that the parties are staying in the same house, however, on different floors.

7. He submits that the couriers are received by whomsoever is present in the property and is normally given to the person to whom it is addressed.

8. He submits that even if any courier was received, the same was handed over to the complainant and the applicant cannot be implicated only because he had received the courier.

9. He submits that the complainant after receiving the courier, is trying to implicate the applicant solely for the reason that the courier was received by him.

10. He vehemently contends that the documents allegedly contained in the courier are of no use to the applicant.

11. The learned counsel for the complainant submits that the documents are likely to be misused by the applicant in future.

12. I have heard the learned counsel for the parties.

13. 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*

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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...”

14. One of the documents which is alleged to be present in the courier, is a certified copy of MoU. The copy of the MoU, in the opinion of this Court, cannot be misused by the applicant. The other document is allegedly the general power of attorney which is executed by the brother of the complainant in his favour in regard to certain properties in Rajasthan.

15. Concededly, the brother of the complainant is alive and he has the liberty to get the general power of attorney cancelled and execute the new general power of attorney. The parties are, admittedly, embroiled in certain property litigations and they are related to each other. The parties are also staying in the same building.

16. Even otherwise, it cannot be said with certainty, at this stage, that the applicant, even if he had received the courier, had misused the same or had not delivered it to the complainant. The same would be tested during the course of the trial.

17. 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.

18. The applicant, in the opinion of this Court, is not required for any custodial interrogation. It is directed that in the event of arrest, the applicant be released on bail on furnishing a personal bond of ₹25,000/- with one surety of the like amount subject to

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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 country without the permission of the learned Trial Court;
- c. The applicant shall not contact the complainant / witnesses or tamper with the evidence in any manner;
- d. The applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times;
- e. The applicant shall provide the address of his residence to the IO/SHO and shall not change the same without informing the concerned IO/SHO.

19. 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.

20. 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.

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

AMIT MAHAJAN, J

NOVEMBER 11, 2024

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