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

\+ **BAIL APPLN. 3577/2024**

RAJVINDER SINGH .....Petitioner

Through: Mr. Mohit Mathur, Sr. Adv. with Mr. Saurabh Ajay Gupta, Mr. Siddharth Nagar, Mr. Ayush Anand, Mr. Monu Kumar, Mr. Aditya Chaudhary, Mr. Sanat Singh, Mr. Raghav Khanna, Mr. Abhishek Sharma, Mr. Nishant Bishnoi & Mr. Vignesh, Advs.

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Ms. Rupali Bandhopadhya, ASC for the State.
IO Insp. Satyender Dhull.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **07.11.2024**

1. The present application is filed seeking regular bail in FIR No. 19/2023 dated 02.03.2023, registered at Police Station Economic Offences Wing for offences under Sections 420/409/477A/201/120B of the Indian Penal Code, 1860 (‘**IPC**’).

2. The FIR was registered on a complaint given by Dr. J.S. Reddy, Additional Director, Export Inspection Council (‘**EIC**’). It is alleged that the applicant, during his tenure as a Deputy Director (Non-Technical) at EIC, was responsible for financial transactions and scrutinising and verifying the details of such transactions. It is alleged that the applicant was exercising the

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powers with respect to transfer the funds using NEFT. The applicant was compulsorily retired after disciplinary proceedings for a different misconduct.

3. It is alleged that it was found after the retirement of the applicant, that he had embezzled funds of the Export Inspection Council of India in the years 2014 and 2019 by transferring funds to fictitious entities. The applicant was found to be the signatory of the NEFT forms.

4. In the first suspicious transaction allegedly for an illegal diversion of a sum of ₹55 lakhs, it was seen that while the payment was shown to be sent to EIC-Delhi, however, the details in the NEFT Form reflected that the amount was for the final release of payment to a private party.

5. Upon scrutiny, multiple illegal transactions were found, where a sum of more than ₹32 crores of Government money had been misappropriated. It is alleged that the presence of the applicant is common to all these transactions. It is alleged that first, a payment note was prepared, and then the payment was transferred to private parties in the garb of payments due to them. It is alleged that the applicant used to steal and destroy the relevant documents to avoid suspicion.

6. It is alleged that in the present case, money to the tune of ₹32 crores was siphoned off through 31 illegal transactions.

7. During the course of investigation, Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (‘**PC Act**’) were also invoked in the present case.

8. The learned Senior Counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the FIR was registered way back on 02.03.2023, however, the applicant was arrested way later on 08.05.2024 after

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issuance of the notice under Section 41A of the Code of Criminal Procedure, 1973 (‘**CrPC**’).

9. He submits that the notice under Section 41A of the CrPC was served on the applicant on 08.05.2024 whereby the applicant was directed to appear on 14.05.2024, however the applicant was arrested on 08.05.2024 itself. He submits that no grounds of arrest have been served upon the applicant.

10. He submits that the chargesheet was filed without any sanction under Section 17A of the PC Act.

11. He submits that there is nothing on record to show that the applicant was the beneficiary of the transactions and that the misappropriated money went to third parties. He further submits that while it is alleged that around ₹32 crores have been siphoned of through 31 transactions, the chargesheet only mentions the involvement of the applicant in 5 transactions.

12. He submits that there is no link between the applicant and the beneficiary firms.

13. *Per contra*, the learned Additional Standing Counsel for the State vehemently opposes the grant of any relief to the applicant. She submits that the investigation has revealed that the applicant in connivance with other associates transferred funds to the tune of several crores to several private entities. She submits that the total loss caused to the department is to the tune of ₹32 crores.

14. She submits that the arrest was made on an apprehension that the applicant might flee the country. She submits that the allegations against the applicant are serious in nature, and submits that further investigation against the applicant and other associates is still being carried out.

15. I have heard the learned counsel for the parties and

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perused the record.

16. It is an admitted case that a notice under Section 41A of the CrPC was given to the applicant on 08.05.2024 asking him to appear on 14.05.2024. Therefore, the notice was given since the State was of the opinion that arrest of the applicant was not required and there was only reasonable suspicion that he may have committed a cognizable offence. The applicant, however, was arrested on 08.05.2024 itself.

17. During the course of arguments, it was pointedly asked as to why the applicant was arrested on the same day itself when on 08.05.2024, his arrest was not required. It was contended on behalf of the State a secret information was received that the applicant was trying to flee the country after selling two of his properties.

18. This Court has perused the said alleged information which was received by the State. The note mentions that the secret information is received that the applicant had sold one property and had also entered into an Agreement to Sell in regard to another property. However, no reason has been mentioned which led to the apprehension that the applicant might flee the country.

19. It was stated that the applicant has only one child who stays in Canada, therefore, the possibility of his fleeing the country cannot be ruled out.

20. The argument, in the opinion of this Court, is erroneous. Going by the said logic, every accused person whose children stay abroad, will be held to be a flight risk. Such apprehensions, in the opinion of this Court, can be duly taken care of by putting appropriate fetters on the travel of the accused such as opening a Look Out Circular or suspending the passport. However, the same, in the opinion of this Court, cannot be a basis for arresting

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a person.

21. It is also not denied that though the applicant was arrested and the grounds of arrest were prepared, the same however were not supplied to the applicant.

22. The application seeking remand mentions the contents of the FIR. Nothing was brought to the notice of the Magistrate that the State was apprehending that the applicant might flee the country.

23. As noted above, the contents of the application seeking remand were only reproduction of the allegation in the FIR which had led to issuance of notice under Section 41A of the CrPC meaning thereby that the said allegations, in the opinion of the State, were not sufficient for the arrest of the applicant.

24. The chargesheet has since been filed in the present case. The allegations in the FIR were in regard to 31 transactions between the year 2014 and 2019. From the perusal of the chart as mentioned by the State in the chargesheet in regard to 31 transactions, it appears that the applicant was signatory to the transfer of the amount in few of the transactions. Other people have also been mentioned in the chart who were signatories along with the applicant. Concededly, no other person has been arrested till date.

25. The chargesheet indicates that 5 of the 31 transactions have been investigated by the Police. In none of those 5 transactions, it is alleged that the applicant is the beneficiary. In regard to the first transaction, the chargesheet mentions that the persons managing the beneficiary company and the applicant did not know each other. In regard to the second transaction, it is mentioned that one Anil Thokchom, who was also an officer of Export Inspection Agency, had booked a plot from the siphoned

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amount. It is further mentioned that the said amount has been returned by the beneficiary company. The said Anil Thokchom has not been arrested till date. In regard to third transaction, it is mentioned that the beneficiary company has returned the amount. In regard to the fourth transaction, it is mentioned that some amount has been returned by the beneficiary company. In regard to the fifth transaction, it is mentioned that the beneficiary company is not traceable.

26. Undoubtedly, the State is at liberty to further investigate the matter and file a supplementary chargesheet. However, at this stage, nothing has been mentioned to show the connection of the applicant with any of the beneficiary companies. None of the person managing the beneficiary company has also been arrested.

27. Another important aspect to be noted is that the applicant, at the relevant time, was a public servant and concededly, no permission under Section 17A of the PC Act has been taken till date.

28. This Court has also perused the arrest memo and the reasons of arrest mentioned therein. It is noted by the State that the applicant was giving evasive reply that he did not have the power to transfer the alleged cheated amount. Nothing else has been mentioned.

29. It is a settled law that not admitting the guilt does not amount to not cooperating with the investigation. (*Ref :* ***Bijender v. State of Haryana*** **: Special Leave to Appeal (Crl.)No. 1079/2024**), decided on 06.03.2024.

30. The applicant is in incarceration since 08.05.2024.

31. In the opinion of this Court, further custody of the applicant is not required. However, to allay the apprehension that the applicant will not join the further investigation if any or will

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flee the country, appropriate condition(s) need to be put.

32. Keeping in mind the facts and circumstances of the case, I am satisfied that the applicant has made out a case for grant of regular bail. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with two sureties of the like amount subject to the satisfaction of the learned Trial Court/ Duty/ Metropolitan Magistrate, on the following conditions:

a) The applicant shall not leave the country without the prior permission of the learned Trial Court;
b) The applicant shall appear before the learned Trial Court as and when directed;
c) The applicant shall join investigation as and when called by the Investigating Officer;
d) The applicant shall provide his mobile number to the concerned Investigation Officer, which shall be kept in working condition at all times and shall not switch it off or change the mobile number without prior intimation to the concerned Investigating Officer;
e) The applicant shall provide his permanent address to the concerned Investigating Officer and shall not change his address without intimating the concerned Investigating Officer;
f) The applicant shall surrender his passport before the concerned Trial Court;
g) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever.

33. In the event of there being any FIR/ DD entry/ complaint

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lodged against the applicant, it would be open to the State to seek redressal by way of filing an application seeking cancellation of bail.

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

35. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

NOVEMBER 7, 2024

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