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

+ **BAIL APPLN. 3716/2024**

GURSEWAK SINGH

.....Petitioner

Through: Appearance not given.
versus

STATE OF NCT OF DELHI THROUGH SHO PS IGI AIRPORT

.....Respondent

Through: Ms. Richa Dhawan, APP for the State

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

24.10.2024

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1. The instant application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") read with Section 528 of the BNSS [earlier Sections 438 and 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C." hereinafter)] has been filed on behalf of the applicant seeking anticipatory bail in FIR bearing no. 160/2020 registered at Police Station IGI Airport, Delhi for the offences punishable under Sections 419/420/120B of the Indian Penal Code, 1860 ("IPC" hereinafter) and Section 12 of the Passports Act, 1967.

2. The brief facts that led to the filing of the instant application are as follows:

(a) On the intervening night of 22nd July, 2020 and 23rd July, 2020, one Indian passenger namely, Mr. Nirvair Singh, who arrived from Beirut, Lebanon holding Emergency Certificate No. X0860671 issued by CGI Beirut by Spice Jet Flight No. SG-9018 and the aforesaid passenger namely, Mr. Nirvair Singh approached to arrival immigration for clearance.



(b) During the scrutiny of his travel documents, it was observed that he departed from IGI Airport on 4th June, 2016 via flight no. WY-242 using his Indian passport bearing no. N0850701 and found that with the same passport some other person has already arrived on 12th September, 2018 via flight no. QR 570.

(c) In view of the aforesaid, the present FIR was registered. As per the contents of the said FIR, it has been alleged that Mr. Nirvair Singh provided his Indian passport to another passenger in order to facilitate his journey to India, illegally, thereby, cheating the Indian immigration.

(d) Thereafter, during his interrogation by the airport authority, it was observed that due to his need of 1000 USD, the instant applicant introduced him to a person who offered to provide him with money, in lieu of keeping his passport, however, neither his passport was returned nor he was provided with the money as promised. Moreover, it was informed to him that his passport has been lost.

(e) Therefore, in view of the aforesaid, the applicant herein has filed the instant application seeking anticipatory bail.

3. Learned counsel for the applicant submitted that applicant is an innocent person and has not committed any offence as alleged in the FIR.

4. Learned counsel for the applicant placed reliance on paragraph no. 2 of the status report filed by the State and submitted that the same does not reflect any substantial proof in order to corroborate the allegations which have been made in the said FIR.

5. It is further submitted that there is no history of previous involvement of the applicant herein in any criminal case and thus, he has a clean antecedent. Moreover, it is submitted that the applicant undertakes to abide



by any condition imposed by this Court while granting him anticipatory bail.

6. *Per Contra*, learned APP appearing on behalf of the State submitted that a fresh status report has already been filed *vide* diary no. 4750459 which is lying under objection, therefore, she handed over a copy of the said status report during the arguments and the same is taken on record.

7. It is submitted that in view of the facts and circumstances as mentioned in the instant FIR, the investigating agencies are still trying to find out the entire network of illegal businesses of such kind wherein the passports of a traveler are taken away from them in lieu of providing financial help, whereas, such Indian passports are provided to other persons for illegally entering the jurisdiction of this Country. It is submitted that this illegal act constitutes as a serious threat of the security of this Country.

8. It is further submitted that the applicant is the main linking chain between the instant passenger, Mr. Nirvair Singh and the agent/person who took the passport and gave the same to someone else to travel in India illegally, therefore, the applicant's custodial interrogation is very much required to investigate the entire network involved in such crime.

9. It is submitted that the present case is not a fit case for grant of the relief of anticipatory bail to the applicant on the certain grounds. *Firstly*, there is an apprehension that the instant applicant may be involved in a larger conspiracy which may hamper with the security of the nation and pose a national threat, and *secondly*, despite serving two notices under Section 41A of the Cr.P.C. upon the applicant, he is not cooperating with the investigation agencies and is choosing to evade the same.

10. Heard learned counsel appearing on behalf of the parties and perused



the material placed on record.

11. It is observed that the present offences alleged against the applicant are serious in nature and pose an imminent threat against the national security of this Country. It is observed that such breach of security cannot be exempted and taken lightly, moreover, stringent action may be taken against the persons involved in the commission of such offences who conduct such illegal business by way of providing Indian passports to illegal travelers in lieu of money. It is therefore pertinent to note that such transactions constitute the offence of cheating against the airport authorities as well as a breach of security.

12. Furthermore, it is observed that despite being served with two notices under Section 41A of the Cr.P.C, the applicant herein is evading the investigating agencies by failing to join the investigation process. Therefore, this Court is of the considered view that in case the applicant is granted with the relief as prayed for, there is an apprehension that he may flee from the process of trial as he is not a permanent resident of Delhi.

13. Therefore, bearing in mind the above facts and circumstances, this Court finds no merit in allowing the instant application as his custodial interrogation is required for further adjudication.

14. Accordingly, the instant petition alongwith pending applications, if any, stands dismissed being devoid of any merits.

CHANDRA DHARI SINGH, J

OCTOBER 24, 2024

Rk/sm

Click here to check corrigendum, if any