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

\+ BAIL APPLN. 3725/2024

DHRUV NARAYAN PANDEY .....Petitioner

Through: Mr. K.K. Manan, Sr. Advocate with Ms. Uditi Bali & Mr. Lavish Chandra, Advocates.

versus

STATE(NCT OF DELHI) .....Respondent

Through: Mr. Tarang Srivastva, APP for the State.
Mr. Achin Mittal & Mr. Aditya Parmar, Advocates for Complainant.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

<u>O R D E R</u>

% **23.12.2024**

By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No.1137/2023 dated 07.08.2023 registered under sections 408/420/34 of the Indian Penal Code, 1860 at P.S.: Paschim Vihar West, Delhi.

2. Notice on this petition was issued on 15.10.2024.

3. Nominal Roll dated 19.11.2024 has been received from the Jail Superintendent.

4. Status Report dated 22.11.2024 had been filed by the State.

5. However, since Status Report dated 22.11.2024 did not set-out the specifics of the assets and properties which gave rise to certain apprehensions on the part of the State, *vide* order dated 16.12.2024 the State was directed to place on record an additional status report.

6. In compliance of order dated 16.12.2024, Mr. Tarang Srivastva, learned APP appearing for the State has handed-up a copy of the Additional Status Report dated 23.12.2024, setting-out the specifics of the properties and assets, which the prosecution fears may be dissipated by the petitioner, if he is enlarged on regular bail.

7. The additional status report is taken on record.

8. It is noticed that the assets and properties referred to in the additional status report, which are worth about Rs. 30 lacs, include jewellery, gym equipment, electronic appliances (including mobile-phones and accessories), interior design work and branded clothes.

9. The allegation against the petitioner is that he has defalcated a sum of about Rs.1.7 crore from the account of his employer, who is the complainant, by routing the complainant's money into the accounts of certain persons with similar names to the complainant's employees and then re-routing that money back to his own account.

10. The additional status report records, that of the aforementioned amount, about Rs. 79 lacs has been received by the petitioner in his bank account, as is seen from his account statements and after investigating various other account holders. However, investigation is still under-way insofar as the remaining sum of more than Rs. 80 lacs is concerned, since some of the accountholders are yet to be interrogated.

11. The suspect transactions are alleged to have taken place in Financial Year 2021-22, and the complainant says that such transactions were discovered at the time of the financial audit conducted after the close of that financial year, whereupon the subject FIR was registered.

12. Mr. K.K. Manan, learned senior counsel appearing for the petitioner submits, that though charge-sheet dated 25.05.2024 has been filed against the petitioner, the additional status report states that since investigation in the matter is still underway, a supplementary charge-sheet would be filed within 02 months, *i.e.*, by or before 15.02.2025.

13. Mr. Manan argues however, that in the meantime, co-accused Vikas has already been granted regular bail *vide* order dated 09.05.2024 passed by the learned Metropolitan Magistrate, Tis Hazari Courts, Delhi; but the petitioner has been languishing in jail for about 09 months since the time of his arrest *i.e.,* 30.03.2024. Learned senior counsel submits, that various bank accounts in the name of the petitioner and his minor son, as referred to in the status report, have already been 'frozen'; and the petitioner is accordingly in no position to access those accounts or tamper with the monies lying in them.

14. Learned senior counsel further submits, that as will be seen from the petitioner's SCRB report dated 03.09.2024 filed in the case, he has no other criminal involvements.

15. In the circumstances, it is prayed, that the petitioner deserves to be enlarged on regular bail.

16. On the other hand, opposing the grant of bail, Mr. Srivastva submits, on instructions of the Investigating Officer ('I.O'), that though the bank accounts in the name of the petitioner and his minor son have been 'frozen', as narrated in the additional status report, investigation in still going-on in relation to the various other account-holders into whose accounts the petitioner transmitted the embezzled money; and therefore, if released on bail, the petitioner may influence those

account-holders and prejudice the investigation. Learned APP also submits, that as per his instructions, most of the accounts that have been frozen have no money in them.

17. The court has also heard Mr. Achin Mittal, learned counsel appearing for the complainant, who submits that the petitioner has defrauded the complainant's company of a huge sum of about Rs. 1.7 crores by routing that money into third-party accounts and then receiving it back into his own account and into the account of his minor son; and therefore, the petitioner would most likely tamper with evidence if enlarged on bail.

18. Upon a conspectus of the overall facts and circumstances of the case, the following considerations weight with the court at this stage:

18.1. That investigation in the subject FIR is complete insofar as the petitioner is concerned and charge-sheet dated 25.02.2024 has already been filed against the petitioner;

18.2. That the bank accounts of the petitioner and of his minor son, into which the defalcated money is alleged to have been received, have already been 'frozen' and/or seized by the I.O. and therefore there is no risk that the petitioner would be able to access those accounts or tamper with the transactions reflected in them;

18.3. That it is also clear that the case turns essentially upon documentary evidence, since the allegation is that the petitioner routed money from the complainant's company into the bank accounts of various persons with names similar to other employees of the company; and thereafter, re-routed that money back into his/his son's bank accounts. Such documentary evidence, including statements of the accounts etc., have already been seized by the I.O. and the evidence is accordingly in the possession of the I.O. and has been filed alongwith the charge-sheet;

18.4. That insofar as the State's apprehension that the petitioner would dissipate the properties and assets acquired by him through the defrauded money is concerned, on instructions Mr. Manan submits, that the petitioner undertakes not to dispose-of any of those properties or assets during the pendency of the case before the learned trial court; and

18.5. That the petitioner's nominal roll discloses that he has been in continuous judicial custody as an undertrial for about 09 months; that he has not availed any interim bail or any other relief so far; that his jail conduct has been 'satisfactory'; and that he has no other criminal involvements.

19. In the circumstances, this court is persuaded to grant to the petitioner – ***Dhruv Pandey s/o Radhy Shyam Pandey*** – *regular bail* pending trial, subject to the following conditions:

19.1. The petitioner shall furnish a personal bond in the sum of Rs. 1,00,000/- (Rs. One Lac Only) with 02 sureties in the like amount from relatives, to the satisfaction of the learned trial court;

19.2. The petitioner shall furnish to the I.O./ S.H.O., P.S.: Paschim Vihar West, Delhi a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

19.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;

19.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial;

19.5. As per the petitioner's undertaking as recorded above, the petitioner shall not dispose-of the assets and properties listed at paras 1A and 1B of additional status report, namely jewellery in the sum of Rs. 4.39 lacs and gym equipment valued at about Rs.15 lacs, in any manner whatsoever, during the pendency of the trial; and

19.6. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.

20. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.

21. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.

22. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.

23. The petition stands disposed-of in the above terms.

24. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 23, 2024

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