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

\+ CRL.M.C. 8616/2024

MICHELE JANEZIC .....Petitioner

Through: Mr.Sudhir Nandrajog, Sr. Advocate with Mr.Mrinal Madhav, Mr.Kaushikesh Kumar, Mr.Tushar Kanth and Mr.Uday Pratap Singh, Advocates

versus

STATE GOVT. OF NCT OF DELHI AND ANR .....Respondents

Through: Mr.Mukesh Kumar, APP for the State

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

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

% **06.11.2024**

<u>CRL.M.A. 32949/2024 (Exemption)</u>

Exemption allowed subject to just exceptions.

The application stands disposed of.

<u>CRL.M.C. 8616/2024 & CRL.M.A. 32948/2024 *(interim relief)*</u>

1. Mr.Sudhir Nandrajog, learned senior counsel appearing on behalf of the petitioner has referred to the order dated 18.12.2014 in CRL.M.C. 5775/2014, whereby the following order was passed:-

> *"This petition has been moved by one Michele Janezic, stated to be a 65 years old. single, French National, who wishes to travel to France for Christmas; and also to undergo some medical check-ups, from 24.12.2014 to 08.01.2015.*
> *Learned counsel for the petitioner has drawn the attention of this Court to an order passed on 26.07.2014 by the court of Metropolitan*

Magistrate, whereby the petitioner was granted interim bail pending the decision of the bail petition on merits, where the following condition was also imposed:

"...Applicant/accused in the meantime is directed to deposit her passport with the IO. Applicant/accused is further directed that she shall not leave India without prior permission of the court and shall join the investigation as and when directed by the SHO/IO concerned."

The passport of the petitioner is stated to be with the concerned Investigating Officer.

Thereafter the main petition seeking bail has remained pending for one reason or another. It is also stated that the scope of the complaint is an alleged breach of trust to the tune of Rs.81.51 lakhs approximately. Further, during the course of the investigation, an amount of Rs.31,68,826/- in the following Accounts of the petitioner held in the HDFC Bank has also been frozen:

Current A/C Nos.

1. 00112320002146;
2. 00112560001309;
3. 00118430000015

Saving A/C No.

1. 00111000163283

In addition, and with a view to demonstrating her bonafides. The petitioner has also offered to place a further sum of Rs.51 lakhs with the Registrar General of this Court within two days from today. Let the same be done.

It is further stated that there is an application which has been moved by the petitioner seeking de-freezing of the aforesaid Accounts maintained by the petitioner in the HDFC Bank. Counsel for the petitioner states that no further steps shall be taken by the petitioner towards prosecuting that application until she returns to India. He further states that he is mindful of the fact that what is being sought from this Court is merely an ad interim relief awaiting the final disposal of the original petition for regular bail, and that it would be open to the petitioner to apply to the Trial Court or even this Court, as she may be advised, for the return of the amount deposited before the Registrar General of this Court whilst pursuing the bail petition, which would obviously be considered on its own merits keeping all the circumstances in mind, by that court.

The amount deposited with the Registrar General of this Court shall be placed in a short term fixed deposit, to be renewed periodically subject to further orders of this Court.
In addition, the petitioner shall furnish all material particulars with regard to her travel and slay out of India, and the itinerary of her trip on an affidavit to be filed in this Court with an appropriate undertaking to return within the time stipulated, with another copy of the same to the concerned Investigating Officer, within two days from today. The affidavit to also contain the details of the deposit of Rs.51 lakhs made by the petitioner before the Registrar General of this Court, as stated above. It will be only on the receipt of the aforesaid affidavit containing all these details that the Investigating Officer shall hand over the passport to the petitioner.
Further, within 24 hours of her return, the petitioner shall intimate the concerned Investigating Officer and hand her passport back to him.
In view of the aforesaid orders, the application moved by the petitioner in the court below, which was also the subject matter of the orders passed on 13.12.2014, also stands disposed off.
The petition, along with Crl.M.A.Nos.19649/2014 and 19650/2014 stands disposed off.
A copy of this order be given dasti under the signatures of the Court Master."

2. Learned senior counsel has also invited the attention to the order passed on 08.04.2015 whereby the bail was granted to the petitioner and the learned MM had noted that a sum of Rs. 32 lacs is lying deposited in the various accounts of HDFC bank, which had been frozen by the Investigation Officer and further a sum of Rs. 51 lacs had been deposited with the Registrar General of this Court. In terms of the order dated 18.12.20214, learned MM had also noted the undertaking of the petitioner that she shall not seek the return of the said amount till the final outcome of the case and same may be treated as a security deposit subject to the final outcome of the case.

3. Learned senior counsel appearing on behalf of the petitioner, on instructions, submitted that as of now the petitioner is a 76 years old, single, French National, would be satisfied if only the interest at the bank rate be granted to the petitioner till the disposal of the case. It is submitted that since the petitioner, who is a foreign national living in India has difficulty for meeting day-to-day expenses.

4. Issue notice. Learned APP has accepted notice. He has opposed the instant petition submitting to the effect that the same is the case of cheating and the cheated amount is Rs.82 lacs. It is submitted that in fact the deposited amount belongs to the Trust and the petitioner has no right to receive the accrued interest.

5. Learned counsel for the complainant submitted that if the interest is released in favour of the petitioner, the part of the deposited amount may be released in favour of the Trust to meet the existing liabilities.

6. I have considered the submissions made by learned counsel for the parties. During the course of the arguments, it has been transpired that only the charges have been framed and not even a single prosecution witness out of 86 witnesses has been examined. It has also been transpired that the delay is taking place as both the parties have filed the revision petition against the order framing the charge. Be that as it may, without adjudicating the delay, either to the prosecution or to the accused, the net result is that the delay is taking place. The amount of Rs.82 laces is either lying with the Bank or the Registrar General of this Court. The petitioner, admittedly, is around 76 years of age and is a foreign national. The Trust is also not earning out of the deposited amount.

7. I consider, therefore, in order to meet the equity, let, henceforth,

interest on the deposited amount at the FDR rate of the nationalised bank be released in favour of the petitioner. However, the petitioner is directed to furnish an indemnity before the learned Trial Court that in case it is found that the money belongs to the Trust, the amount so released on account of interest shall be returned to the Trust along with the bank interest accrued thereon.

8. Furthermore, the complainant is at liberty to move an application before the learned MM for release of the part amount so deposited. Thereto, learned MM shall decide the same in accordance with law.

9. In order to facilitate the payment of interest, the amount lying with the HDFC current bank account, shall be converted in the form of FDR and the interest accrued thereon shall be released in favour of the petitioner.

10. With the aforesaid directions, the instant petition alongwith the pending application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 6, 2024
Dy/ht..