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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4201/2024 & CRL.M.(BAIL) 1917/2024**

HEENA MALHOTRA HEENA DUA THROUGH
PAIROKARPetitioner

Through: Mr. Samarth Krishan
Luthra, Ms. Sanjana
Mishra, Advs.

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: Mr. Manoj Pant, APP for
the State.
SI Naresh Kumar Sharma,
PS Shahdara.
Mr. Amit Khanna & Mr.
Raj Vardhan, Advs. for
complainant / Mr.
Dhawan.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
19.11.2024

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CRL.M.A. 34520/2024 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed seeking regular bail in FIR No.367/2024 dated 27.08.2024, registered at Police Station Shahdara, for offences under Sections 420/406/34 of the Indian Penal Code, 1860.

4. The FIR was registered on a complaint given by one Gaurav Gupta, who alleged that he was introduced to the applicant and her husband, who used to deal in sale and purchase of second-hand cars. The complainant wanted to purchase a

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second-hand car and on 10.11.2022, the applicant and her husband came to his residence and told him that they will arrange a Fortuner car of 2020 make for a sum of ₹15,00,000/-. It is alleged that the complainant transferred a sum of ₹10,00,000/- from his account into the account of M/s. Prabh Autonation. In December, 2022, the complainant was shown a white colour Fortuner car in a good condition whereafter a further sum of ₹5,00,000/- was also paid by the complainant. It is alleged that when the complainant contacted the accused persons for the car, they told him that they have no Fortuner car. Although the husband of the applicant returned ₹4,00,000/- to the complainant, however, thereafter, the accused persons became untraceable. It is alleged that on 17.03.2024, the complainant met the husband of the applicant who threatened him of dire consequences if he asked for his money. The same led to giving of complaint on 20.03.2024. The FIR was ultimately registered on 27.08.2024. The applicant was thereafter arrested on 22.10.2024.

5. The applicant filed a bail application before the learned Trial Court which was dismissed by order dated 08.11.2024.

6. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and the dispute is essentially commercial in nature.

7. He submits that even as per the complaint, a sum of ₹4,00,000/- was returned by the husband of the applicant to the complainant. He submits that although the car was shown to the complainant, however, the same could not be sold to him and the same by no stretch imagination can be given a criminal colour.

8. He submits that the dispute is purely commercial in nature and the only purpose of the complaint as stated in the FIR itself is that the complainant wants his money back.

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9. He submits that in the present case the arrest of the applicant is also illegal. He submits that it is an admitted case that grounds of arrest were not furnished to the applicant.

10. He lastly contends that the applicant and her husband are both in custody and they have two minor children who needs to be taken care of.

11. *Per contra*, the learned Additional Public Prosecutor for the State relies upon the status report filed before the learned Trial Court. He submits that the applicant is also involved in another case of similar nature.

12. He submits that the applicant and her husband have sold cars to various other persons and have taken a sum of over ₹1 crore from those intended purchasers. He submits that no car, however, was ever delivered.

13. Mr. Khanna, the learned counsel appears for some of the victims and contends that a sum of ₹64,50,000/- were taken from three victims on a promise to sell the cars.

14. He submits that the multiple cars were shown by the applicant and her husband only for the purpose of inducing the victims to part with their hard-earned money, whereas the applicant and her husband had no intention to sell those cars. He further submits that the applicant and her husband also tried to sell a stolen car to one of the victims.

15. I have heard the learned counsel and perused the record.

16. It is the case of the prosecution that the applicant and her husband induced multiple victims to part with a substantial amount of consideration by showing them cars without any intention to sell the cars. The applicant and her husband were arrested on 22.10.2024.

17. It is argued on behalf of the applicant that the dispute is



purely commercial in nature.

18. The allegations and defences will be seen during the course of the trial, however, it cannot be ignored that it is an admitted case that the grounds of arrest were not prepared or furnished to the applicant at any stage.

19. On being pointedly asked, it is informed that the sole reason to arrest the applicant was that she had not joined the investigation pursuant to the issuance of notice under Section 41A of the Code of Criminal Procedure, 1973 ('CrPC').

20. The entire evidence, at this stage, appears to be documentary in nature since the financial transactions were allegedly carried out through banking channels.

21. The purpose of custodial interrogation is to aid the investigation and is not punitive. In such circumstances, the custody of the applicant will serve no purpose.

22. The applicant, being a woman, is undeniably entitled to special consideration while dealing with the question of bail, in terms of the proviso to Section 482(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 [*erstwhile* Section 437 (1) of the CrPC].

23. It is also not disputed that the applicant has two minor children to be taken care of.

24. In view of the above, I am of the opinion that the applicant has made out a *prima facie* case for grant of bail.

25. However, appropriate conditions ought to be imposed to allay any apprehension of the applicant evading the trial or tampering with the evidence.

26. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

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- a. 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;
- b. The applicant shall under no circumstance leave the boundaries of the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where she would be residing after her release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

28. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

29. 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.

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

AMIT MAHAJAN, J

NOVEMBER 19, 2024/“SK”

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