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

\+ BAIL APPLN. 4389/2024

GAGAN .....Petitioner

Through: Mr. Prashant Yadav, Ms. l.axmi Gaur and Mr. Ankit Khatri, Advs.

versus

THE STATE GOVT. 0F NCT OF DELHI .....Respondent

Through: Mr. Aashneet Singh, APP for State. Inspector Shiv Prakash, PS Alipur. Mr. Lalit Gupta, Mr. Priyansh Jain, Mr. Anmol Ghai and Ms. Ishita Nautiyal, Advocates for complainant with auditor of complainant in person.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

% **11.12.2024**

1. This is a petition filed by the petitioner seeking anticipatory bail in FIR No. 0596/2024, under Sections 408/420 IPC registered at PS Alipur.

2. As per the FIR, M/s Cargo Motors i.e. complainant had registered a complaint against the petitioner stating that he was the Manager (Accounts) of the complainant company.

3. The complainant company upon having suspicion of misappropriation of funds conducted an internal audit for the financial period of 2019 to 2023. During investigation, it has come to their knowledge that there is misappropriation of funds at the hands of the petitioner of about Rs. 1 Crore 58 Lacs. The petitioner has released vehicles without the sale consideration

having been received for the said vehicles.

4. It is stated by Mr. Yadav, learned counsel for the petitioner that the FIR is motivated and based on incorrect facts. He states that if the allegations are 2019 onwards, it is incomprehensible that no audit was done by the complainant company since then and that they did not get to know that for a large number of vehicles, no sale consideration was received. He further states that the petitioner is only one officer in the hierarchy of the accounts branch. The petitioner reports to a superior and thereafter reports to the CFO. It is not possible that the vehicles were released without sale consideration and the same would not have come to the knowledge of the superiors as well as of CFO. He states that the documents relied upon by the complainant, are neither stamped nor authenticated. No audit report has been annexed with the documents filed by the complainant.

5. Mr. Gupta, learned counsel for the complainant company has taken me to the documents filed by the complainant. A perusal of the documents show that the receipts and gate passes have been issued by the petitioner. Additionally in the ledger account, entries have been made, wherein the consideration for the vehicles has been set off against the 'Delfund'. He states that Delfund is a credit entry, which is received from the manufacturer as part of incentive for selling X number of vehicles. He further states that the Delfund account has been credited to set off the sale consideration of the vehicles.

6. Delfund account has not been provided to the IO nor enclosed with the documents filed.

7. The learned APP also opposes the anticipatory bail application.

8. I have heard learned counsel for the parties.

9. A perusal of the documents filed by the complainant show that they are in the handwriting of the petitioner. There is the ledger account of purchasers of the vehicles which do not show any sale consideration received for the vehicle, but are set off against Delfund (recover from Tata). The ledger also shows that the said entries have been entered by the petitioner. It is also admitted that it was the responsibility of the petitioner to issue gate pass for the release of vehicles. It was incumbent on the petitioner as part of his responsibility to see that no vehicle is released without payment of consideration.

10. Learned APP in the status report, in para 5, has also stated that two customers namely Tilak Raj and Dharam Bahadur were examined, who stated that they handed over cash to the Dealer (Cash Executive), who in their presence handed over the cash to the petitioner. As per the status report, the cash entries are not reflected in the record of the complainant.

11. The fact that for 2019 to 2022, no detailed audit was committed, can be attributable to Covid-19 pandemic, where the company may have undertaken a skeletal audit report. Hence, there is a requirement of custodial interrogation.

12. For the said reasons, I am not inclined to entertain the application and the same is dismissed.

JASMEET SINGH, J

DECEMBER 11, 2024/*akc*