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

+ **CRL.M.C. 3274/2023**

SANJAY GUPTA

.....Petitioner

Through: **Mr. Tushar Rohmetra, Advocate.**

versus

**THE STATE (GOVT. OF NCT
OF DELHI) & ANR.**

.....Respondents

Through: **Mr. Sanjeev Sabharwal, APP for the
State.
SI Rahul Malik, PS Maurya Enclave.
Mr. C.L.Gupta and Mr. Ravi Rohilla,
Advocates for R-2.**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
19.02.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 of the Code of Criminal Procedure, 1973, (for short, 'CrPC') has been filed seeking the following prayers: -

“a) Cancel the bail granted to the Respondent no.2 Vijaya Goyal vide order dt. 22/03/2023 passed by the Hon'ble Court of Sh.Yashwant Kumar , principal District & Session Judge, North West District, Rohini Court, Delhi; in case FIR No. 28/2022 registered U/s 420/467/468/471/120-B/34 IPC at P.S. Maurya Enclave, Delhi; and direct the Respondent no. 1 to arrest and commit the Respondent No. 2 to custody;

b) Pass any other further order/direction which this Hon'ble Court may deem fit and proper, in the interest of justice.”

3. Learned counsel appearing on behalf of the petitioner has submitted that the earlier bail application of respondent No. 2 was dismissed by the



learned ASJ *vide* order dated 21.01.2023. It is pointed out that, thereafter, on 22.03.2023, the impugned order granting bail to respondent No. 2 was passed without any change in circumstances. It is further submitted that the order dismissing bail of respondent No. 2 was passed on 21.01.2023 by way of a detailed order considering the seriousness of the offences alleged in the present case. It is further submitted in the impugned order dated 22.03.2023, the learned Principal & District Sessions Judge (for short, 'DJ') while granting bail to respondent No. 2 did not record reasons in respect of any change in circumstances after the passing of the previous order dated 21.02.2023, whereby the bail application of respondent No. 2 was dismissed.

4. Reliance has been placed on **Ram Govind Upadhyay v. Sudharshan Singh & Ors., (2002) 3 SCC 598; Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav & Anr., (2004) 7 SCC 528; Jyoti Swahney v. State & Anr., 2016 SCC OnLine Del 2496**, to contend that once the order rejecting bail has been passed, the Successor Court ought to record its finding with regard to change in circumstances while granting bail to such an accused.

5. Learned counsel appearing on behalf of respondent No. 2 submits that the impugned order dated 22.03.2023 is a detailed order which has been passed after taking into consideration the submissions of learned APP for the State as well as the learned counsel for the petitioner herein. It is further submitted that the notice was initially issued to the petitioner and it would be wrong to say that no substantial opportunity was granted to the petitioner to address arguments when the impugned order was passed. It is further submitted that *vide* a separate order of the same date, i.e., 22.03.2023, husband of respondent No. 2 was also granted bail and the said order was challenged by the petitioner herein before this Court by way of CRL. M.C. 3260/2023,



which has been dismissed by a Coordinate Bench *vide* order dated 05.04.2024. It is further submitted that after granting bail, respondent No. 2 has regularly appeared before the learned Trial Court and nothing has been placed on record to show that she has misused the liberty granted to her or has acted in violation of any conditions of bail imposed *vide* the impugned order. It is further submitted that respondent No. 2 is a lady and mother of two children and the impugned order was passed after the detailed discussion.

6. Heard learned counsel for the parties and perused the records.

7. Perusal of the impugned order dated 22.03.2023 shows that the learned DJ was conscious of the fact that the previous application of bail of respondent No. 2 was dismissed *vide* order dated 21.01.2023 by his predecessor. The said order has also taken note of the objections raised by the learned APP for the State that there was no change in circumstances after the dismissal of the earlier bail application of respondent No. 2. Taking note of the aforesaid, learned DJ passed the impugned order by making the following observations:

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“Keeping in view the facts and circumstances of the case and discussions made above, I am of the considered opinion that as per the prosecution case, there are allegations of cheating and criminal conspiracy against the applicant/accused and others. In the year 2019, the applicant/accused approached the complainant and claimed that she and her husband/co-accused were the owners of the property in question which was purchased by them from one Ashish Mann through registered sale deeds. The applicant/accused and her husband/co-accused assured the complainant that the property in question was already mutated in their names and the same was free from all encumbrances. On the said assurance, the complainant and his wife purchased the property in question *vide* two separate registered sale deeds. During investigation, one namely Ashish Mann was also examined who stated that someone by impersonating him appeared before the Sub Registrar concerned and got registered sale deeds of his lands. Further, bank details pertaining to the registered sale deeds



executed between Ashish Mann and the applicant/accused and her husband/co-accused were also obtained. On analysing the bank reply, the cheques mentioned in the registered sale deed dated 06.07.2018 were unused. The property was further sold to complainant vide registered sale deed dated 18.06.2019 and hatched the conspiracy alongwith the coaccused persons in order to cheat the complainant.

As per the applicant/accused, the property in question was purchased by the applicant/accused and her husband from the co-accused Hargovind. Other co-accused persons except her husband even showed and handed over all the relevant documents which proves that they were the absolute owner of the property in question. Therefore, the other co-accused persons except her husband committed fraud and cheated them. The original owner of the property in question namely Ashish Mann has already filed civil suits in which complainant also filed reply and claimed that the applicant/accused bonafidely purchased the property in question. The applicant/accused has also claimed that the complainant neither in his complaint nor in his reply to the civil suits alleged that the applicant/accused made any misrepresentation or she deceived him. The complainant himself verified the documents which were in order. Applicant/accused is in JC since 09.09.2022. Investigation is already complete. Chargesheet has already been filed. Co-accused Aman Goel has already been granted anticipatory bail and even coaccused Hargovind who impersonated him as Ashish Mann has already been granted regular bail by Id. ASJ, North West, Rohini, Delhi. Civil suits are already pending between the parties. The trial would take considerable time as per procedure and law. Therefore, the bail application is allowed. Accordingly, the applicant/accused Vijaya Goyal is admitted to regular bail in this case on the following terms and conditions:"

8. The aforesaid impugned order, as pointed out hereinabove, has taken into consideration all the contentions raised on behalf of all the parties and the same was passed, keeping in view of the fact that respondent No. 2 was in custody since 09.09.2022. Although, there is no clear finding with respect to any change in circumstances, however, keeping in view of the custody period undergone by respondent No. 2 as well as the other contentions raised on behalf of respondent No. 2, the learned DJ has passed the impugned order



after proper application of mind and considering all the factual circumstances.

9. The Coordinate Bench of this Court *vide* order dated 05.04.2024 in CRL.M.C. 3260/2023 had dismissed the similar petition filed on behalf of the petitioner herein with regard to cancellation of bail granted to the husband of respondent No. 2, who was also granted bail *vide* separate order dated 22.03.2023. It is noted that both the respondent No. 2 and her husband were granted bail *vide* separate orders of the same date. It is noted that nothing has been brought on record to show that respondent No. 2 has violated any conditions of bail after she was released on bail in pursuance of the impugned order dated 22.03.2023. As already noted hereinabove, chargesheet in the present case has been filed and the matter is at the stage of consideration on point of charge.

10. In these facts and circumstances of the present case, this Court is not inclined to cancel the bail granted to respondent No. 2. Accordingly, the present petition is dismissed and disposed of.

11. Pending application(s), if any, also stand disposed of.

12. Needless to state that, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made herein are only for the purpose of the present petition.

13. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

FEBRUARY 19, 2025/bsr

[Click here to check corrigendum, if any](#)