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

+ **CRL.M.C. 1417/2021, CRL.M.A. 9009/2021**

JAI PRAKASH

.....Petitioner

Through: Mr. Sermon Rawat, Mr. Vansh Kapoor and Mr. Harshit Jain, Advocates.

versus

STATE & ANR.

.....Respondent

Through: Ms. Meenakshi Dahiya, Ld. APP for the State with SI Sandeep Kumar P.S. Ambedkar Nagar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

19.02.2025

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1. A Petition under Section 482 Cr.P.C has been filed against the impugned Order dated 30.03.2021 vide which the learned Sessions Judge upheld the condition imposed by the learned M.M of payment of ₹1.5 lakhs per month while granting bail vide Order dated 13.02.2019.

2. It is submitted in the Petition that the only grievance of which the Petitioner in the Bail Order dated 13.02.2019 is the directions to pay Rs.1.5 lakhs per month which has been modified and explained by the learned Sessions Judge in the Order dated 30.03.2021 that the said amount shall be paid till a total sum of Rs.45 lakhs which is the sale consideration under the two ATS/Collaboration Agreements, is deposited in the Court.



3. Learned counsel for the Petitioner submits that essentially it was the transaction between the parties in respect of two ATS/Collaboration Agreements dated 20.12.2010 and 18.10.2011 in respect of which the Complainant had filed Civil Suit for Specific Performance. Subsequently, after about one year the present Complaint on the allegations of cheating has been made. It is submitted that essentially the transaction between the parties was civil in nature in any case this condition of directing the Petitioner to deposit Rs.45 lakhs in the monthly instalment of Rs.1.5 lakhs per month is illegal and not tenable.

4. The Status Report has been filed and the learned Prosecutor submits that since there was a cheating under the two ATS the condition imposed is justified and also has been made voluntarily by the learned Counsel for the Petitioner and the impugned Order does not suffer from any infirmity.

5. **Arguments heard and record perused.**

6. The record shows that the two Collaboration Agreements dated 20.12.2010 and 18.10.2011 between the parties, but they had difference and Civil Suit for Specific Performance got filed after about one year and the FIR was filed with the allegations cheating, criminal trespass, theft and robbery under Section 380/448/406/420/34 IPC. The Chargesheet has already been filed under Section 420/406/448/380/411/34 IPC before the learned Trial Court.

7. Pertinently, the learned M.M in its detailed Order dated 13.02.2019 had made categorical observations of there being no material particulars like date of visit of the Complainant to the property and discovery of house trespass mentioned in the Complaint. It is also indicated that initially FIR was filed under Section 420 IPC and thereafter the investigations continued



for more than 2 years and 9 months and thereafter Section 448/380/506/411 IPC has been added in the FIR. There is civil litigation between the parties. It is also observed that there was delay in registration of the FIR for which there is no explanation. The Complainant also had not placed on record showing that he was actually running the business of PG from the premises. After observing all these facts the condition of deposit of Rs.1.5 lakhs per month was made merely because ostensibly on the submissions made by the Counsel for the Petitioner. However, in the present Petition it has been submitted that no such instruction were given to the learned Counsel.

8. The learned Sessions Court in its Order dated 30.03.2021 has further clarified that this Rs.1.5 lakhs per month was in respect of Rs.45 lakhs which were payable under the two ATS/Collaboration Agreements and thus directed that the amount be paid till the full payment of Rs.45 lakhs is deposited in the Court.

9. Pertinently, this is a criminal trial and such condition of direction to deposit the amount is not warranted while making a bail order. The Petitioner has rightly contended that this condition could not have been made as a condition of Bail, therefore, this condition of deposit of Rs.1.5 lakhs per month by the Petitioner is waived.

10. The Petition is allowed and is hereby disposed of along with pending Application.

NEENA BANSAL KRISHNA, J

FEBRUARY 19, 2025/va