**(2022) 01 DEL CK 0055**

**In the Delhi High Court**

**Case No :** Bail Application No. 418 Of 2021

Deepak Kumar Shami APPELLANT

Vs

Vstate Of Nct Of Delhi RESPONDENT

**Date of Decision :** 07-01-2022

**Acts Referred:**
Indian Penal Code, 1860 — Section 34, 420
Code Of Criminal Procedure, 1973 — Section 438

**Citation :** (2022) 01 DEL CK 0055

**Hon'ble Judges :** Rajnish Bhatnagar, J

**Bench :** Single Bench

**Advocate :** Ravi Ranjan, Rajni Gupta, Rajiv Pratap Singh

**Final Decision :** Dismissed

## Judgement

Rajnish Bhatnagar, J

1. The present application has been filed under Section 438 Cr.P.C on behalf of the petitioner seeking anticipatory bail in case FIR No. 892/2015

under Sections 420/34 IPC registered at Police Station Preet Vihar.

2. In brief the facts of the case are that FIR No. 892/2015, dated 31.12.2015, under sections 420/34 IPC was registered at Police Station Preet Vihar

on the complaint of complainant Jaspreet Singh Seth against Mr. Deepak Kashyap (Managing Director), Mr. Pradeep Singh (Director) and Mr. Ajay

Rana (Manager) of M/S Deva Creation Pvt. Ltd., wherein he alleged that in January 2015 he saw an advertisement on a car and contacted M/S

Deva Creation Pvt. Ltd having its office at G- 11, Vikas Deep Building, District Centre, Laxmi Nagar, Delhi-110092 and asked from the employees of

company about the offers to get a car from their company. Mr. Ajay Rana (Manager) told him about their plans to give a car by putting advertisement on it for which he did not have to pay any installment. Mr. Pradeep Singh (Director)and Mr. Deepak Kashyap (Managing Director) lured him to invest

Rs. 61,000/- in their company. The complainant deposited Rs. 61,000/- through DD in their company and purchased a car i.e., Maruti Ertiga bearing

no. DL3CCF3268 on finance from ICICI Bank and made the down payment of Rs. 1,37,000/- for the said car. He took total loan of Rs. 6,02,378/-for

the said car. Soon after the purchase of car, he visited the office of company, but no one was present at the office. The accused persons ran away

after cheating him and switched off their mobile phone. Hence, this case was registered.

3. I have heard the Ld. counsel for the petitioner and the Ld. APP for the state and perused the status report filed by the state.

4. It is submitted by the Ld. counsel for the petitioner that petitioner has not been named in the FIR and he was completely unaware of the registration

of the FIR No. 0892/2015 and came to know about the same in the last week of November, 2020, that the police was making inquiry about him. It is

further submitted that the petitioner was a sleeping Director and was not involved in the affairs of the company. Ld. counsel for the petitioner

submitted that the petitioner's real maternal uncle, namely, Jaswant Verma incorporated M/s Deva Creation Private Limited and that he exclusively

controls the company. It is further submitted that the petitioner was made the second director/ non-active director of the company only to complete the

statutory compliances of two directors in a private limited company and that the petitioner was not given any authority to look into the affairs of the

company. Ld. counsel for the petitioner further submitted that it is the case of the complainant that he had made the payment through DD in the

account of the company and therefore, the petitioner cannot be termed to be a beneficiary of the amount paid by the complainant.

5. On the other hand, learned APP for the state vehemently opposed the bail application and submitted that the allegations are serious in nature and

there are 32 other complaints received at Police Station Preet Vihar with similar allegations of cheating against Jaswant Verma and Deepak Kumar.

It is further submitted that the other complainants stated that accused persons also cheated them on the same modus operandi and took approximately

Rs. 25,00,000/- from them. It is further submitted that Petitioner became director of the said company on 31.12.2013 and resigned from directorship on

 

24.07.2015, thus, it is clear that the petitioner and Jaswant Verma were directors in the company when complainant paid money to the employees of

M/s Deva Creations Pvt Ltd. Ld. APP for the state submitted that the details of bank account No. 083105001189 of M/s Deva Creation Pvt Ltd were

obtained from ICICI Bank, Laxmi Nagar and as per Bank record, the account is in the name of M/s Deva Creation Pvt Ltd having its director

Deepak Kumar (Petitioner herein) and Jaswant Verma and as per the bank statement, on 10.07.2015, an amount of Rs. 40,000/- was transferred from

bank account of complainant to that of the company. It is submitted that the Company is having another account no. 914020001126835 in Axis Bank

and Jaswant Verma and Deepak Kumar (Petitioner herein) were signatories to it. Ld. APP for the state further submitted that the offence is serious

in nature and NBWs are already obtained against petitioner but he is absconding.

6. In the instant case, on 19.09.2020, NBW were issued against the petitioner and on 30.01.2021 fresh NBWs were issued, however, the petitioner is

absconding and evading arrest. As per the submissions of learned APP, petitioner was the director of M/s Deva Creation Pvt. Ltd. The said company

used to induce customers to purchase a new Car in their name by obtaining loan and the customers were directed to put different ads on their car and

in lieu of putting ads, the company, in return, would pay installments of the car loan. The Company took Rs. 25,000/- as registration fees and also

provided money receipt and Advertisement Agreements. After obtaining the registration fees the company failed to make installments of car loan. The

said company has collected the amount from approximately 100 customers and ran away after closing company office at Vikas Deep Building,

District Centre, Laxmi Nagar. Apart from the present complainant, there are 32 other complaints received at Police Station Preet Vihar with similar

allegations of cheating.

7. Keeping in view the facts and circumstances of this case, and the serious allegations against the petitioner, of cheating thirty-two credulous,

innocent, gullible and poor people, to the tune of Rs. 25,00,000/-approximately, by being actively involved in the management and day-to-day affairs of

the company while holding the position of a director since 31.12.2013 and also, considering the fact that NBWs were issued against the petitioner on

19.09.2020 as well as on 30.01.2021 and he is absconding and evading arrest and custodial interrogation of the petitioner is required to unearth the

truth of cheating the complainants and for recovery of the cheated amount, no ground for bail is made out, the bail application is, therefore, dismissed.

8. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

 