

(2018) 05 DEL CK 0355
In the Delhi High Court
Case No : BAIL APPLN. 1221 OF 2018

MAHFUZ KHAN

APPELLANT

Vs

STATE (NCT OF DELHI) & ORS.

RESPONDENT

Date of Decision : 24-05-2018

Acts Referred:

Indian Penal Code, 1860 — Section 406, 420
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2018) 05 DEL CK 0355

Hon'ble Judges : SANJEEV SACHDEVA

Bench : Single Bench

Advocate : Fizani Hussain, Mukesh Kumar

Final Decision : Dismissed

Judgement

SANJEEV SACHDEVA, J.

1. Petitioner seeks transit bail in FIR No. 291 of 2018 under Sections 420/406 IPC PS Jewar, UP.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated and there is no material to connect the petitioner with the alleged offence. She submits that the petitioner is not even named in the FIR. Anticipatory transit bail is sought for the purposes of approaching the concerned Court.

3. Learned counsel for the petitioner submits that petitioner is a resident of Delhi by birth and a permanent resident of the aforesaid residential address and owns a furniture shop at Mata Sundari Road and is a respectable citizen of the country.

4. Learned counsel for the petitioner relies upon the judgment dated 18.04.2018 in bail application 850/2018 titled: Devdutt Kardan & Anr. vs. State of

UP and order dated 17.08.2017 in bail application No.1598/2017 titled: Harun K. & Ors. Vs. State of Maharashtra to contend that this court has granted anticipatory transit bail even for the state of UP.

5. The petition is opposed by learned APP appearing for the State of NCT of Delhi. Inspector Ashok Kumar, Additional SHO, PS Jewar Gautam

Budh Nagar is also present and has produced the relevant record.

6. It is contended by learned APP that there is no provision of grant of anticipatory bail in the State of UP and petitioner cannot apply for grant of

anticipatory bail. She submits that there is sufficient material to show the involvement of the petitioner in the commission of the offence and custodial interrogation of the petitioner is required.

7. Reliance is placed on the disclosure statement of co-accused as also on Cell the location of the petitioner. It is further contended that there is

sufficient material to show that the petitioner is the mastermind behind the offence. It is further submitted that the custodial interrogation of the

petitioner is required for the purposes of ascertaining the role play the petitioner as also for the purposes of complete investigation.

8. There is no quarrel with the proposition that this court would have the power to grant anticipatory transit anticipatory bail even for the State of UP,

however prior to exercise of the discretionary power this court has to examine as to whether in facts of a case circumstances warrant grant of

anticipatory transit bail. Anticipatory Transit Bail is not for the mere asking.

9. The allegations in the FIR are that the complainant was transporting several kgs of silver worth crores of rupees from Agra to IGI Airport Delhi in

a truck. Near Jewar (UP) some persons dressed as Policemen stopped their truck and boarded the same. Thereafter the complainant, security guard

and other staff were off loaded near ITO Delhi. One of the co accused in his disclosure statement has disclosed that the petitioner was the

mastermind and came up with the plan to rob the truck carrying gold and silver. He is alleged to have stated that he had inside information as to when

the same would be transported. The entire planning was done by the petitioner. Learned APP submits that apart from the disclosure statement, other

evidences inter alia the call data record and sell location of the petitioner has confirmed his involvement. She submits under instruction from Additional

SHO, PS Jewar Gautam Budh Nagar, that investigation is at a nascent stage and

custodial interrogation of the petitioner is required to unearth the entire conspiracy and involvement of others and recovery of the stolen goods.

10. I am of the view that in facts of the case the request for custodial interrogation is not unjustified. The petitioner has failed to make out a case for grant of anticipatory bail. Since the Petitioner has failed to make out a case for grant of anticipatory bail and the case pertains to the state of Uttar

Pradesh, where the provisions of section 438 Cr.P.C. for grant of Anticipatory bail are not applicable, I am not inclined to grant transit anticipatory bail to the petitioner.

11. The Petition is accordingly dismissed.

12. Order Dasti under the signatures of Court Master.