

Renu Malhotra vs State Of Nct Of Delhi on 16 September, 2020

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

\$~Bail-1

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 1736/2020
RENU MALHOTRA

.....Pet

Through : Mr. Rajive Maini and Ms. Shriya
Maini, Advs.

versus

STATE OF NCT OF DELHI

.....Respon

Through : Mr. Hirein Sharma, APP.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 16.09.2020 [Court hearing convened via video-conferencing on account of COVID-19]

1. This is a petition filed under the provisions of Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 seeking grant of regular bail to the petitioner.

2. The petitioner was arrested on 05.08.2019 and has been in judicial custody since 06.08.2019. The subject FIR bearing no. 203/2018 was registered, though, on 28.08.2018.

3. In short, the allegation against the petitioner and other co-accused is that they induced the complainant i.e. one, Ashwani Oberoi to part with Rs. 27, 00,000/- on the pretext that she had a tender in hand issued by the Ministry of Human Resources and Development, Government of India which she could transfer in his favour.

4. The record shows that insofar as the complainant is concerned, he, along with his two sons, is involved in criminal proceedings which are the subject matter of FIR bearing no. 922/2018, P.S. Panipat City, Panipat. This FIR was registered on 03.07.2018.

BAIL APPLN. 1736/2020

4.1 The petitioner is also arraigned as an accused in thi

petitioner, I am told by Ms. Shriya Maini, who appears on behalf of the petitioner, has been admitted to bail in this case.

5. Insofar as the subject FIR is concerned, both, the petitioner's husband i.e. Joginder Malhotra and her son i.e. Rahul Malhotra, being the other co-accused, applied for bail and have been enlarged on bail. 5.1 Joginder Malhotra was granted bail vide order dated 14.03.2019, passed by the learned Additional Sessions Judge, (North West), Rohini Courts, Delhi. A perusal of the said order shows that Joginder Malhotra made over Rs. 4,00,000/- to the concerned Court by way of a Fixed Deposit Receipt [in short "FDR"].

5.2 Insofar as Rahul Malhotra is concerned, he obtained anticipatory bail vide order 11.09.2019, passed by this Court, in Bail Application No. 2209/2018.

6. In these circumstances, Ms. Maini argues the following:

(i) The other co-accused in the subject FIR are on bail.

(ii) The amount which was, allegedly, deposited in the bank account of the petitioner i.e. Rs. 4,00,000/- stands secured by virtue of the FDR made over by her husband i.e. Joginder Malhotra with the concerned trial court.

(iii) Despite a request being made by the prosecution to the concerned authority i.e. Cyber Cell, North West District, as far back as on 22.09.2018, to ascertain the source of the e-mail via which the petitioner allegedly communicated with the complainant, which supposedly induced him to part with Rs. 27,00,000/-, has not been auctioned to date.

BAIL APPLN. 1736/2020 page 2 of 5

(iv) The petitioner is sick and, therefore, falls in the high-risk category given the fact that the pandemic is raging all over the country.

7. On the other hand, Mr. Hirein Sharma, the learned APP, submits that the petitioner has the propensity of committing crimes of like nature. 7.1 For this purpose, my attention has been drawn to the status report where other cases, in which the petitioner is involved, have been adverted to. 7.2 It is, however, not disputed by Mr. Sharma that investigation qua the subject FIR is complete and the matter is at the stage of framing of charges. 7.3 Insofar as the petitioner's medical condition is concerned, Mr. Sharma says that while she has certain medical complications, it is not as if the same cannot be taken care of with medication.

7.4 Mr. Sharma, however, does not dispute the fact that the concerned Cyber Cell has not been able to comply with the request made, as far back as on 22.09.2018, to submit its report qua the source of the e-mail address i.e. mhrd.gov.nic@gmail.com.

8. I have heard Ms. Maini and Mr. Sharma and perused the record.

9. In my view, while the petitioner's history does seem bothersome, that, by itself, cannot be the sole factor in determining as to whether or not she should be enlarged on bail in the instant petition. 9.1 The details given in the bail petition, qua which there is no dispute, show that the petitioner has endeavoured to settle the matters with the concerned complainants' and that, in some matters, she has been partially successful.

BAIL APPLN. 1736/2020

9.2 There is also some bit of merit in Ms. Maini's conten

a request having been made to the concerned Cyber Cell to submit its report with regard to the source of the e-mail address i.e. mhrdgoi.nic@gmail.com, as far back as on 22.09.2018, there has been no revert. 9.3 This is a crucial report which could make or mar the prosecution's case.

9.4 The petitioner, on the other hand, has been in judicial custody, admittedly, since 06.08.2019.

9.5 According to Ms. Maini, at the highest, what the complainant could have demonstrated is that he had to part with Rs. 4, 00,000/- as that is the amount which stands credited to the petitioner's account. Ms. Maini says that the allegation that the complainant had to part with Rs. 27, 00,000/- is not borne out by the material available on record. 9.6 Insofar as Rs. 4,00,000/- is concerned, as noticed above, the husband of the petitioner i.e. Mr. Joginder Malhotra has already deposited the said amount with the concerned trial court by way of an FDR. 9.7 Furthermore, the record shows that the medical report, which is appended at page 123 of the petition, is indicative of the fact that the petitioner falls in the "high-risk category". 9.8 In addition, thereto, the other co-accused i.e. Joginder Malhotra and Rahul Malhotra, who are the husband and son of the petitioner, respectively, have already secured bail.

10. Thus, given the overall circumstances, I am of the view that the petitioner should be enlarged on bail.

10.1 It is ordered accordingly.

BAIL APPLN. 1736/2020 page 4 of 5

11. The bail petition is disposed of with the following directions:

(i) The petitioner will furnish a personal bond of Rs. 50,000/- with one surety of the like amount. The surety will be, one, who is a resident of Delhi.

(ii) The petitioner will not engage with the witnesses or tamper with the evidence.

(iii) The petitioner will establish contact, every fortnight, with the Investigating Officer. Ms. Maini, for this purpose, has furnished the following mobile number: +91-9319545658.

12. It is made clear that the petitioner's enlargement on bail via this order will be subject to her custody not being required in any other case.

13. The Registry will communicate, albeit electronically, the order passed, today, to the Jail Superintendent, District Jail, Rohtak at the following email address, furnished by Ms. Maini.

"supdtroh.jail@hry.nic.in"

RAJIV SHAKDHER, J SEPTEMBER 16, 2020 Aj/KK Click here to check corrigendum, if any BAIL APPLN. 1736/2020 page 5 of 5