



2026:DHC:3854

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

+ CRL.M.C. 5842/2024

VIKAS GARGPetitioner

Through: Mr. Hariom, Advocate.

versus

STATE (NCT OF DELHI) & ANR.Respondents

Through: Mr. Manoj Pant, APP for the State
with Mr. Saksham Kumar, Mr. Piyush
Kumar, Mr. Sumit Verma, Mr.
Akash, Mr. Shreshtha Arya, Mr.
Vijaya Singh, Advocates with
Inspector Ramkesh, P.S.: EOW.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **31.07.2024**

CRL.M.A. 22339/2024 (exemption)

Exemption allowed, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

CRL.M.C. 5842/2024

By way of the present petition filed under section 439(2) read with section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') the petitioner seeks cancellation of bail and setting-aside of order dated 17.05.2024 passed by the learned ASJ-05/North-West District Rohini Courts, Delhi, whereby respondent No.2 has been admitted to bail. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "*disposed of, continued, held or*



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made” in accordance with the Cr.P.C. *only* in cases where *such proceedings*, viz. “*any appeal, application, trial, inquiry or investigation*”, were already *pending* immediately before the date on which the BNSS came into force, i.e. 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings by changing the governing law during the pendency of such proceedings.

2. Since the present petition has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 483(3) read with section 528 of the BNSS.
3. It may be observed however, that any objection that may be taken in the above regard, is kept open to be decided subsequently.
4. Mr. Hariom, learned counsel appearing for the petitioner submits, that though two other co-accused persons, namely Bibek Singh Mehta and Mohit Gupta, have also been granted regular bail by Co-ordinate Benches of this court, relief was granted to the two persons principally on the ground that they have settled their dispute (in individual capacities) with the individual complainants/victims and have refunded the amounts that were in dispute.
5. Counsel submits however, that respondent No.2 has a larger role in the offence since he is a 30% shareholder in the partnership firm that had engaged in collection of money, leading to the commission of the offences alleged. Counsel submits, that respondent No.2 has not



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refunded any amount to the petitioner (complainant). Furthermore, it is argued, that contrary to what has been recorded by the learned Sessions Court in the impugned order, namely that no new victim has come forward in the last 06 months, the correct position is that about 10 more victims have come forward during that period.

6. Counsel also points-out, that the bail petition of the fourth co-accused person viz. Amit Arora has been dismissed by the learned Sessions Court *vide* order dated 27.07.2024.
7. Issue notice.
8. Mr. Manoj Pant, learned APP appears for the State on advance copy; accepts notice; and seeks time to file status report.
9. Upon the petitioner taking requisite steps, let notice be sent to respondent No.2 by all permissible modes, returnable for the next date.
10. Let status report/reply be filed within 04 weeks of service; response/rejoinder thereto, if any, be filed within 03 weeks thereafter; with copies to the opposing counsel.
11. Let copies of the orders passed by Co-ordinate Benches of this court granting bail to Bibek Singh Mehta and Mohit Gupta; and the order of the learned ASJ dismissing the bail petition of Amit Arora, be placed on record before the next date.
12. Re-notify on 25th October 2024.

ANUP JAIRAM BHAMBHANI, J

JULY 31, 2024/ak