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MCRC-32225-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 13<sup>th</sup> OF SEPTEMBER, 2024MISC. CRIMINAL CASE No. 32225 of 2024*RAJESH**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Ms. Sapna Patwa - Advocate for the applicant.

Shri Anirudh Malpani - GA for respondent/State.

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ORDER

1. This 9th application under Section 483 of BNSS, 2023 has been filed for grant of bail primarily on the ground of delay.

2. The Hon'ble judges who had rejected the previous applications have either retired or have been transferred, therefore, this case was listed before this Court.

3. The applicant is in jail from 14.5.2017. The allegations are that fraudulently an amount of Rs. 19,80,000/- was siphoned off from the account of the complainant.

4. Yesterday when the case was taken up, it was submitted by the State that only three witnesses are left to be examined, out of which two are the investigating officers. One has gone to Thailand in connection with some program of United Nations and his period of assignment is one and half years. Accordingly, this Court directed the State counsel to verify as to



whether the assignment of the said Investigating Officer can be curtailed so that he can appear before the trial Court or not?

5. Today it is submitted by counsel for the State that he has received instructions to the effect that IO Manish Rai has been posted in Embassy of India, Bangkok and his assignment is of for 4 years. Since the counsel for the State was not in a position to make a statement that whether Manish Rai would appear before the trial Court on the next date of hearing or not, the case was passed over with a direction to keep a senior police officer present before the Court so that this Court can verify, as to whether the prosecution is in a position to examine Manish Rai on 27.9.2024 or it is helpless in keeping him present. It was made clear that in case if the prosecution expresses its helplessness in keeping Manish Rai present before the trial Court, then this Court may grant bail on the ground of helplessness to the prosecution.

6. Faced with such a situation, counsel for the State submitted that in that case the State would like to file an application seeking permission to examine Manish Rai through video conferencing but fairly conceded that such verbal prayer has already been rejected verbally by the Trial Court. Be that whatever it may be. Accordingly, the case was taken up in the post lunch session.

7. Shri Narendra Singh Raghuvanshi, DSP State Cyber Cell, Indore Zone, Indore appeared and submitted that on 27.9.2024 the Investigating Officer Manish Rai who is posted in Embassy of India, Bangkok will appear before the Trial Court. It was also conceded by him that Manish Rai has been



sent on deputation and No Objection to his application for deputation was given by the State as well as the Police Department. Accordingly, Shri Narendra Singh Raghuvanshi was directed to file a written undertaking with the clear understanding that in case if Manish Rai does not appear, then this Court may direct for registration of proceedings under the Contempt of Court. After twenty minutes, Shri Narendra Singh Raghuvanshi, Dy. SP provided a copy of affidavit which reads as under:

"1/ That, I am presently posted as Deputy Superintendent of Police, State Cyber Cell, Indore Zone, Indore (MP). I am also an Officer-In-Charge of the case; therefore, I am acquainted with the facts of the case and competent to swear this affidavit on oath.

2/ That, I had appeared before the Hon'ble Court today i.e., on 13.09.2024 in the present matter. This Hon'ble Court vide oral directions issued on 13.09.2024 directed me to file an undertaking in the instant case in regard to ensuring attendance of Manish Rai in S.T. No. 552/2017 pending before the Ld. XIth Additional Sessions Judge, Indore, who is presently deputed as Assistant Security and Personal Officer at Embassy of India, Bangkok. Manish Rai was one of the Investigation Officer in Crime No. 22/2017 and his attendance is to be made in the said case on 27.09.2024 for his evidence.

3/ That, I had informed my senior officer Mr. Jitendra Singh, Superintendent of Police, State Cyber Cell, Indore Zone, Indore regarding such directions and upon his instructions, I undertake that I will ensure the personal appearance of Mr. Manish Rai on the next date of hearing i.e., on 27.09.2024 before the Ld. Trial Court.

4/ That, the instant undertaking has been filed before this Hon'ble Court in compliance of the oral directions issued by this Hon'ble Court on 13.09.2024 passed in M.Cr.C. No.32225/2024."

8. The affidavit which has been filed by Mr. Narendra Singh Raghuvanshi is shocking to the conscience of this Court. Narendra Singh Raghuvanshi had made a statement that Mr. Manish Ray would appear before the Trial Court on 27.9.2024 and only on the said statement, he was directed to place it on record in writing. But Shri Raghuvanshi has tried to give a twist to the fact by making a submission that in fact this Court has



asked him to submit the undertaking and the factum of making a statement that Manish Rai would appear on 27.9.2024 before the Trial Court was conveniently avoided by Narendra Singh Raghuvanshi. This conduct of Narendra Singh Raghuvanshi clearly shows that he has no respect for the life and liberty of the fellow citizens and even he has no respect for his own statement, which he had made before this Court. Accordingly, the State counsel was directed to keep the Superintendent of Police or the Commissioner of Police, whoever is available in the town so that a statement can be obtained from them with regard to the presence of Manish Rai before the Trial Court. It was directed that the further proceedings would take place in chamber as the cause list was already exhausted.

9. Shri Anand Soni, Additional Advocate General submitted that the Superintendent of Police and Commissioner of Police are not available in the town but provided a written undertaking given by Manish Rai to Superintendent of Police, State Cyber Cell sent from Embassy of India, Bangkok mentioning that he would appear before the Trial Court on 27.9.2024.

10. It is really shocking that a person who has investigated the matter was allowed to go abroad on deputation by compelling the under trial prisoners to remain in jail. This conduct of the State Government in granting No Objection to the Investigation Officers and that too for a period of four years is beyond understanding. The State must realize that life and liberty of an under trial cannot be curtailed merely because one of his officer wants his posting abroad. Before granting NOC the State Government and the Police



Department should have ensured that the evidence of said officer is already recorded in all the trials in which he had investigated the matter or in which he was cited as witness. Unfortunately, the State Government has miserably failed in discharging its duties at the cost of life and liberty of the applicant and may be of similarly situated various other persons. Since Manish Rai has sent a written information to the Superintendent of Police, State Cyber Cell assuring that he would appear before the Trial Court on 27.9.2024, therefore, there is no reason to disbelieve the same.

11. Accordingly, this application is disposed off with liberty to the applicant to revive the prayer in case if Manish Rai does not appear before the Trial Court on 27.9.2024 or the prosecution fails to close its evidence within a period of one month from today. It is made clear that in case if Manish Rai fails to appear before the Trial Court on 27.9.2024, then the Principal Registrar of this Court shall register a case of Contempt of Court against Shri Manish Rai AP & WO, Embassy of India, Bangkok as well as against Shri Narendra Singh Raghuvanshi, Dy. SP, State Cyber Cell, Indore Zone, Indore. In case if Manish do not appear before the Trial Court on 27.9.2024, then Principal Secretary, Home Department as well as the Director General of Police are directed to immediately cancel the NOC which was granted to Manish Rai and he shall be immediately called back to India by curtailing his assignment/ deputation.

12. It is made clear that in case Manish Rai appears before the Trial Court on 27.9.2024, then Director General of Police shall ensure that Manish Rai does not go back without getting his evidence recorded in all those cases



in which he has been cited as a witness.

13. With aforesaid observation, the application is disposed off.

Certified copy as per rules.

**(G. S. AHLUWALIA)**  
**JUDGE**

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