(2023-3)211 PLR 516 (SC)

SUPREME COURT OF INDIA

Present : Justice Abhay S.Oka , Justice Pankaj Mithal .

SHANE GEORGE DSOUZA – Appellant,

versus

STATE OF NCT OF DELHI – Respondent.

Bail – Condition of deposit of amount – Sessions Court granted bail to appellant subject to the condition of deposit of Rupees Ten Lakhs – Condition of deposit of such amount cannot be a condition of bail – Appellant had not volunteered to deposit the sum – Direction also granted permission to release the amount to the victim – Criminal proceedings cannot be converted into recovery proceedings – Order imposing the condition, set aside – Indian Penal Code, Sections 419, 420 and 120B – Indian Technology Act, 2000, Sections 66C and 66D .

ORDER

(04.10.2023) – Leave granted.

2. Heard the learned counsel appearing for the appellant and the learned senior counsel appearing for the respondent.

3. First Information Report was filed making allegations of commission of offences under Sections 419, 420 and 120B of the Indian Penal Code and Sections 66C and 66D of the Indian Technology Act, 2000. The allegation of the prosecution is that the present appellant has cheated the complainant and the amount involved is about Rs.37,00,000/- (Rupees thirty seven lakhs). The Sessions Court by the order dated 18th January, 2023 granted bail to the appellant subject to the condition of deposit of a Demand Draft in the sum of Rs.10,00,000/- (Rupees ten lakhs) in the name of the Trial Court. A direction was issued that the Trial Court may release the said amount to the victim. The appellant moved the High Court seeking waiver of the condition of deposit of Rs.10,00,000/- (Rupees ten lakhs). The High Court rejected the said prayer by the impugned order.

4. However, time to deposit the amount was extended.

5. This Court has repeatedly held that the condition of deposit of such amount cannot be a condition of bail. In this case, the appellant had not volunteered to deposit the sum of Rs.10,00,000/- (Rupees ten lakhs). The direction in the order dated 18th January, 2023 is not only of imposing a condition on the appellant of bringing a sum of Rs.10,00,000/- (Rupees ten lakhs) to the Trial Court but a permission has been granted to release the amount to

the victim. It is a settled law that criminal proceedings cannot be converted into recovery proceedings.

6. Hence, in the facts of the case, there was no justification for imposing the condition of deposit of Rs.10,00,000/- (Rupees ten lakhs). Accordingly, the appeal must succeed and we set aside clause (a) of the operative part of the order dated 18th January, 2023 passed by the Additional Sessions Judge-05, New Delhi District, Patiala House Courts, New Delhi. The rest of the conditions shall remain as it is.

7. The appeal is accordingly allowed.

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