

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

+ Bail Application No. 1550/2008

% Date of Reserve : 08.10.2009
Date of Decision : 20.10.2009

M.S. SAINI

...PETITIONER

Through: Mr.Ajay Burman, Mr.Rajesh
Samanotra and Mr.R.K.Singh,
Advocates

VERSUS

STATE

...RESPONDENT

Through: Mr.Navin Sharma, APP for the
State along with SI Ashok Kumar,
IO, SIT/Crime Branch
Mr.Sanjay Rathi, Advocate for
the complainant.

CORAM:

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | Whether the Reporters of local papers
may be allowed to see the judgment? | Yes |
| 2. | To be referred to Reporter or not? | Yes |
| 3. | Whether the judgment should be
reported in the Digest? | Yes |

MOOL CHAND GARG, J.

1. This order shall dispose of the bail application filed by the petitioner, M.S.Saini, who is in judicial custody in a case arising out of FIR No.14/2005 under Sections 420/467/471/120-B IPC registered at Police Station Model Town.

2. It is submitted on behalf of the petitioner that he is an innocent person

and has been falsely implicated and arrested in the present case. Even otherwise, there is no evidence against the petitioner. The petitioner is a lawyer by profession and was counsel for Charanjit Singh in cases filed by Naresh Kumar in the court of Civil Judge, Delhi. It is also submitted that Smt.Shakuntala Devi was the owner of the property bearing No. 46, Ishwar Colony, who sold the said property to Rajinder Kumar on 21.04.1989 vide GPA and agreement to sell, etc. It is also submitted that the complainant, Naresh Kumar, is a fake person having no relationship with Shakuntala Devi and by playing the deception obtained mutation order dated 09.12.2002 from DDA regarding the premises in dispute, which has been cancelled by the DDA on 20.04.2004. It is also submitted that regarding the other property bearing No. DE-119, Tagore Garden, Delhi as well, the DDA has cancelled the mutation vide order dated 10.04.2008. Since both mutations were obtained by misrepresentation and concealment of facts an FIR has been ordered to be registered against Naresh Kumar by DDA. The present FIR was registered illegally on the behest of land mafia, who wanted to grab the said premises illegally. The present FIR is a pressure tactics to make undue pressure and harassment to the petitioner and others so as to desist them from contending the dispute of the said property despite the fact that the police concerned has taken no action upon the earlier complaint dated 03.01.2005 lodged by Charanjit Singh as against the complainant and others. It is also submitted that the petitioner has neither prepared any forged documents of the premises No. 46, Ishwar Colony, Delhi nor the said

documents were prepared in his presence. A false disclosure statement has been taken from one Ved Prakash Saini by the Investigating Officer. The petitioner was engaged as counsel in the said matter much after the possession was taken in execution of the premises in question and has not committed any offence of forgery, cheating or any other offence mentioned in the FIR. Even otherwise a bare perusal of signature of Charanjit Singh on various documents including vakalatnama and the specimen signatures taken of Ved Prakash Saini show that they are of different persons. It is also submitted that as per the arbitration award both Rajinder and Charanjit Singh were present which also, prima facie, shows that they are different persons. It is also submitted that Ved Prakash or Raju or Manoj Kumar Nagpal had no concern with the premises No.46, Ishwar Colony, Delhi for which the FIR in question has been registered and nothing has been recovered from Ved Prakash Saini and present petitioner during their custodial interrogation. It is also submitted that the matter is sub-judiced before the Civil Court and it is the Civil Court which has to decide to whom the property actually belongs to. It is also submitted that the petitioner is a practicing lawyer having 20 years of standing and there is no chance of his absconding or tampering with the evidence. It is also submitted that the investigation in the present case is complete and charge sheet has been filed and learned ACMM has been pleased to take cognizance only under Section 420 IPC against the present petitioner. No useful purpose would be served by keeping the petitioner in further judicial custody. It is also submitted that

the petitioner is ready to co-operate with the investigating agency. He belongs to a respectable family having clean antecedent and deep roots in the society and is ready to abide by all terms and conditions, if any, imposed by this Court while granting bail.

3. According to learned APP, the petitioner represented Charanjit Singh in the Court at Delhi and Gorakhpur, who is a non-existing person. He also fabricated documents in the name of deceased Smt.Shakuntala Devi, the original owner of property bearing No. 46, Ishwar Colony, Delhi. He also fabricated an arbitration award in Gorakhpur in respect of this property in favour of one Rajender Kumar, who also does not exist. Both Charanjit Singh and Rajender Kumar are one person as thumb prints and photographs of both are identical. Ved Prakash Saini, co-accused of the petitioner, had impersonated both Charanjit Singh and Rajender Kumar and was arrested in this case. On the basis of the arbitration award the property was transferred to Charanjit Singh. This property was then further transferred to one Manoj Kumar Nagpal through a Special Power of Attorney. This special power of attorney was also prepared by the petitioner. This property was lying locked. On 19.4.2002 Manoj Kumar Nagpal took possession of this property through baliff in the presence of the petitioner. The baliff proved the presence of the petitioner also at the spot. Manoj Kumar Nagpal was known to the petitioner. Presently, he is untraceable. It is also alleged against the petitioner that in a similar fashion he took possession of another property at B-169, Janta Colony, Raghubir Nagar, Delhi. The original

owner of this property was Kiran Kumar Nagpal. The petitioner forged documents to show that the owner was the so-called Manoj Kumar Nagpal, an associate of the petitioner. This property was then shown as bought by Rajender Kumar (non existing person) through a GPA. Rajender Kumar was then shown to sell the property to Nirdosh Saini, wife of the petitioner. The petitioner stood witness in this deal. Ms.Nirdosh Saini then sold this property to two persons by bifurcating the plot. The new owners were Smt.Vimla Devi w/o Duli Chand, r/o Janta Colony, Raghubir Nagar, Delhi and Santosh Kumari w/o Mohan Lal r/o B-59, Janta Colony, Raghubir Nagar, Delhi. Thereafter, Smt.Vimla Devi sold her half to Smt.Rupam Jaiswal w/o Uday Jaiswal, while Smt. Santosh Kumari sold her half to Geeta Kumari. It is submitted that on the basis of the complaint made by the owner of the property at Ishwar Colony, the FIR of this case was registered on 08.10.2005 when the second fraud played by the petitioner was also unearthed. The petitioner was arrested in this case on 26.04.2008 and is also in judicial custody since then. The investigation has substantiated all the allegations against the petitioner as aforesaid. The charge sheet coupled with FSL report also substantiates the case of the prosecution. It is thus submitted that the appellant who is a law graduate and had been practicing advocate is not entitled to bail in this case. More so, his co-accused namely Ved Prakash Saini had been denied bail by a learned Judge of this Court vide order dated 08.10.2008. Nothing new has come in favour of the petitioner to enlarge him on bail. His non-furnishing of address of Charanjit

Singh has further proved that he was non-existing person.

4. The allegations made against the petitioner by the prosecution are serious in nature. Apparently, the petitioner along with co-accused has cheated innocent persons by fabricating documents and impersonating persons who are non-existent by obtaining award on the basis of fraudulent representations. They have divested the complainant and one other person from the properties. Merely because the petitioner is in judicial custody for more than one year it does not make out a case of bail.

5. It is true that property at Ishwar Colony has been found to be lying vacant and has been taken possession by the State in terms of the order orders passed by this Court but the fact remain that another property was ultimately came to be occupied by the wife of the petitioner which now stands sold to third parties. The petitioner and his wife could take the possession of the property only because they got an award in favour of a non-existing person. The documents placed on record by the prosecution goes to show that the petitioner and his co-accused Ved Prakash Saini were directly involved in the fabrication of other documents in favour of non-existing persons, namely, Charanjit Singh and Rajinder Kumar which enabled them to benefit themselves for taking possession of the property of others including that of the complainant.

6. In view of the above and taking into consideration the orders passed by the learned Single of this Court in the case of co-accused, I do not find it

to be a fit case to admit the petitioner on bail.

7. Bail application is accordingly dismissed. Pending applications, if any, also stand dismissed. However, nothing stated herein will be treated as any comment on the merits of the case and will not preclude the trial court to decide the matter on merits un-influenced by the observations made above.

MOOL CHAND GARG, J.

October 20, 2009
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