

\$~37

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ Bail Application No. 1096/2008

GAURAV DHINGRA & ANR.

..... Petitioner

Through: Mr. Tanvir Ahmed Mir, Advocate

Versus

STATE

..... Respondent

Through: Ms. Meera Bhatia, ASC for the State

Mr. G.P.Theraja, Advocate for the Complainant

CORAM:

JUSTICE SHIV NARAYAN DHINGRA

ORDER (ORAL)

06.12.2010

%

The applicants have sought anticipatory bail on the ground that the applicants have been falsely implicated and in any case there was no necessity of custodial interrogation.

Brief facts relevant for the purpose of deciding this application are that the applicants sold property no. 20/26-B, East Punjabi Bagh, New Delhi to the complainant. Sale deed was executed and the possession of the entire property was handed over to the complainant by the applicants. However, the applicants requested the complainant that the applicants be let out first floor portion of the property so as to accommodate their parents who were old and in the meantime they shall search for alternate accommodation for them. A rent agreement was entered into and first floor as well as kitchen at the ground floor was let out by the complainant to the applicants in order to accommodate the old/aged parents of the applicants. The complainant had locked rest of the property after putting her

goods and articles in the house. The complainant after few days learnt that her locks had been broken open and the entire property repossessed by the applicants; all her goods had been stolen and removed. The contention of the applicants was that the possession was never handed over to the complainant and the possession was with the applicants only and the complaint was false. It was a civil dispute. This aspect was considered by the trial Court and it was found that the applicants had filed a Civil Suit being CS(OS) No. 1096/05 before the High Court and therein it was categorically admitted that the possession of the ground floor was handed over to the complainant and was with the complaining party. This turn around about the possession was taken by the applicants after the complainant requested the Court to appoint a Local Commissioner and the Local Commission found that the entire building was in the possession of the applicants. It is obvious that the applicants had received huge consideration from the complainant and later on broke open the locks of complainant removed all the goods of the complainant and took over the possession. It looks as if the intention of the applicants, from the very beginning, was to cheat the complainant and perhaps for this reason the applicants had stalled their old parents in the property. The complainant still stands deprived of the possession of the property. The applicants had made no effort to restore the possession of the property to the complainant.

I consider the custodial interrogation of the applicants was necessary to find out where the goods of the complainant had been removed and to recover the goods of the complainant and other evidence regarding trespass and

breaking open of locks etc. The facts also reveal that the applicants were hand in glove with their parents in trespassing into the entire property and stealing the goods. The whole operation done by the applicants smacks of a well designed conspiracy of the applicants along with other accused persons to cheat and loot. I do not consider it a fit case for grant of anticipatory bail. The application is hereby dismissed.

SHIV NARAYAN DHINGRA,J

DECEMBER 06, 2010

vn