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

+ BAIL APPLN. 1214/2013 CrI. M.A. No. 10184/2013

REV. JOHN AUGUSTINE Petitioner
Through: Mr. Kirti Uppal, Senior Advocate
with Mr. Ravi Chawla, Advocate

versus

STATE Respondent
Through: Mr. Mukesh Gupta, Additional
Public Prosecutor for respondent-
State with Inspector Ajay Kumar
Mr. Kapil Kumar Dagar, Advocate
for complainant

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
12.07.2013

Petitioner is the ex-officio Chairman of Indian Church Trustees and is arrayed as accused in FIR No. 34/2012, under Sections 420/467/468/120 B of the IPC, registered at police station Economic Offences Wing, Delhi.

Learned senior counsel for petitioner seeks anticipatory bail for petitioner by asserting that in July 2011, petitioner learnt about alleged execution of Deed of Conveyance in respect of property No. 2A, Karbala, Lodhi Road, New Delhi by petitioner in favour of M/S Mahamaya Builders Pvt. Ltd. for a nominal amount of Rupees Five Crores odd

whereas the market value of this property is about Hundred Crore Rupees and attention of this Court is drawn to a receipt of 18th July, 2011 to submit that petitioner had purportedly cancelled the aforesaid Agreement as it was fraudulently executed by someone posing as petitioner whereas petitioner had not executed any such agreement.

Learned senior counsel for petitioner has drawn the attention of this Court to an opinion rendered by the Additional Solicitor General way back in April, 2001 regarding the subject property being vested in Indian Church Trustees under the Church of India. Thus, it is submitted on behalf of petitioner that the subject property is not government's property and infact, petitioner has been cheated by co-accused - Ramesh Chand Aggarwal, Director of M/S Mahamaya Builders Pvt. Ltd., who is on interim bail, as he has undertaken to deposit Rupees Eleven Crores. According to learned senior counsel for petitioner, it is evident from the FIR of this case that the complainant/ first-informant had enquired from petitioner about subject property and petitioner had told him that even he had been cheated by co-accused- Ramesh Chand Aggarwal. On behalf of petitioner it is submitted that petitioner is not aware of pendency of other criminal cases except one in which he is on regular bail and since petitioner is ready to join investigation, so he deserves to be protected from unwarranted arrest.

This application is strongly opposed by Mr. Mukesh Gupta, Additional Public Prosecutor for respondent-State , who submits that the Deed of Conveyance / Sale Deed executed by petitioner in favour of M/s Mahamaya Builders is forged and fabricated document and even the

comment of Additional Solicitor General relied upon by petitioner, is not binding as there is official communication of 20th July, 2010 to show that the subject property is Government land. It is pointed out that official communication of 24th September, 2009 addressed to petitioner by Ministry of Urban Development regarding mutation of the subject premises is also a forged document and infact, petitioner had excluded a receipt of 2nd November, 2010 regarding having received Rupees Twenty Five Lacs towards part sale consideration of the subject property from M/S Mahamaya Builders. Thus, it is submitted that the fabricated Deed of Conveyance/ Sale Deed executed by petitioner in favour of M/S Mahamaya Builders is to be recovered and custodial interrogation of petitioner is necessary for effective investigation of this case.

Learned senior counsel for petitioner has concluded his submissions by pointing out that the Sale Deed and Affidavit of 2nd January, 2010 furnished regarding selling of subject property to M/s Mahamaya Builders is a fabricated document as the Sale Deed as well as the forged affidavit bears signature of '*John Augusta*' whereas petitioner is '*John Augustine*'.

Upon hearing both sides and on perusal of the FIR of this case, Session Court's order declining pre-arrest bail to petitioner and the material on record, I find that petitioner is stated to be involved in eighteen cases whereas petitioner plead ignorance about it and submits that only one case and that too of cheating pertaining to a property in Civil Lines, Delhi is pending against him in which is on regular bail. A bare perusal of order of 3rd July, 2013 vide which learned Additional

Sessions Judge has dismissed petitioner's bail application reveals that petitioner had undertaken before the Sessions Court to return Rupees Twenty Five Lacs received by him.

Gravity of offence coupled with the fact that petitioner is already involved in one similar case in which he is on regular bail is sufficient to disentitle him to the concession of pre-arrest bail, as effective investigation can take place upon custodial interrogation of petitioner. It cannot be lost sight of that apart from petitioner's involvement in two cases in Delhi, sixteen other cases are pending against him in other parts of the country. Antecedents of petitioner are such that he does not deserve to be granted anticipatory bail.

This application is dismissed while not commenting on the merits of this case, lest it may cause prejudice to petitioner when he seeks regular bail.

(SUNIL GAUR)
JUDGE

JULY 12, 2013

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