

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

RESERVED ON : 18th APRIL, 2013

DECIDED ON : 31st MAY, 2013

+ BAIL APPLICATION No.871/2012

LT. CDR. (RETD.) DARYAO SINGH Petitioner

Through : Mr.Nisit Kush, Advocate with
Mr.S.K.Sharma, Advocate.

versus

CBI Respondent

Through : Mr.Manoj Ohri, Spl.P.P.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. The petitioner- Daryao Singh seeks anticipatory bail under Section 438 Cr.P.C. in RC No.217, 2012/002/CBI/ACU-VI/New Delhi. The FIR was registered on the basis of 'source' information against four persons and the petitioner is one of them.

2. Allegations against the petitioner in the FIR are that in response to a public notice published in May, 1995 for development of farmhouse, the petitioner had submitted proposal. The said proposal did not materialise and the petitioner gave two more proposals. Thereafter, another proposal submitted by the petitioner was accepted. Letter of intent was issued on 22.11.1996. The price of land offered by the petitioner was fixed at high rate. The petitioner finally developed 226 farm units out of

300 farms initially agreed. It is alleged that AFNHB made payment ₹ 16 crores approximately to the petitioner. The petitioner had promised to provide land which was free from encumbrances and free from floods etc. On 14.10.1996, K.K.Sangar, Air Vice Marshal, Director General, AFNHB constituted a Board of officers for survey of the agriculture land offered by the petitioner and they visited the site on 16, 17 and 24 October, 1996. As per the report of survey team, dated 25.10.1996, the land was found falling in flood prone zone at village Kabulpur (Haryana), roads were damaged, and the Farm Units were likely to be close to Yamuna river. It was further brought out that the land was being cultivated by one Hari Singh for the last thirty years. The petitioner arranged land in Motipur village which was Bhoodan land in flood prone area and was in notified area of U.P. Government vide notification dated 06.08.1997. In view of that, the Board recommended to re-advertise the project. AFNHB terminated the contract in 2003. The petitioner caused lose to AFNHB members to the tune of ₹ 30 crores.

3. Petitioner's contention is that the FIR is self-contradictory. There is inordinate delay in lodging the report without any specific complaint. The matter pertains to the year 1995 and the case was registered in 2012. Comprehensive agreement was executed with AFNHB

on 19.05.1997. It contained various terms and conditions including arbitration clause. The petitioner has already initiated arbitration proceedings and the matter is pending before Sole Arbitrator. Earlier also on two occasions complaints were made to Crime Branch, Delhi Police (EOW) but allegations were found frivolous and false. The petitioner further alleged that he had also lodged an FIR against AFNHB in 2004 in Faridabad (Haryana). He has huge claim against the Board. Counter claim against him was withdrawn by the Board before the arbitrator. Cheques issued in his favour by the Board were dishonoured. The petitioner is aged 78 years and has joined the investigation.

4. On perusal of the file it reveals that earlier interim protection was granted to the petitioner by the Trial Court and he joined the investigation. This Court also granted interim protection on 13.06.2012 and he was directed to join the investigation with the Investigating Officer on 14.06.2012 at 12 o'clock at CBI Headquarters. The petitioner joined the investigation in compliance of the order. The said interim protection was extended thereafter. The Trial Court declined anticipatory bail to the petitioner only on the ground that the petitioner was not residing at the address furnished by him. The impugned order records that the petitioner was available on message given to him on his mobile. There is inordinate

delay of about fifteen years in lodging the First Information Report. No specific complaint was lodged by the victims. The arbitration proceedings initiated by the petitioner were pending before the arbitrator. The Allahabad High Court admittedly has quashed the order dated 03.04.2006 of Tehsildar by which the mutation was cancelled on 05.07.2011.

5. Considering all these facts and circumstances of the case, the petitioner is admitted to anticipatory bail and in the event of his arrest, he be released on bail on his furnishing personal bond in the sum of ₹ 1 lac with one surety in the like amount to the satisfaction of the Investigating Officer with the condition that he shall furnish his residential address with proof to the Investigating Officer. The petitioner shall remain available as and when required by the Investigating Officer and shall join the investigation. The petitioner shall also provide his contact number to the Investigating Officer. If there is any change in the residential address or contact number, the petitioner shall inform the concerned Investigating Officer as well as the Trial Court.

6. The application stands disposed of.

(S.P.GARG)
JUDGE

MAY 31, 2013/*tr*
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