

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 12167 of 2023

Applicant :- Gunjan Khurana @ Goldi Khurana

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Amit Kumar Singh

Counsel for Opposite Party :- G.A.,Prasoon Kumar,Sharad Sharma

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Ashutosh Pandey, Advocate holding brief of Sri Amit Kumar Singh, learned counsel for the applicant and Sri Sharad Sharma, learned counsel for the informant as well as Sri Ashutosh Srivastava, learned A.G.A. for the State and also perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 250 of 2023, under Sections 420, 467, 468, 471 & 120-B of IPC, Police Station Jait, District Mathura, with a prayer to enlarge him on anticipatory bail.

PROSECUTION STORY:-

4. As per prosecution story, the applicant, who happens to be the Director of the Company i.e. MILESTONE REALCON LIMITED, and other co-accused persons are stated to have executed a sale-deed of Plot No. C-160 of the Company in favour of one Heera Rani on 31.07.2013. The said plot was further sold by Heera Rani to the informant through a registered sale-deed on 24.02.2023. The Directors of the Company in collusion with their representative holding Power of Attorney Ranchhor Das @ Ranjeet Kumar Mandal are stated to have illegally sold the same plot to one Meera Devi on 03.01.2023 itself mentioning Plot No. RC-160 and also mentioning the same surroundings that were mentioned in the registered sale-deed of Plot No. C-160.

RIVAL SUBMISSIONS:-**Arguments on behalf of the applicant:-**

5. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has apprehension of his arrest. He has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that the said sale-deed has been executed by Ranchhor Das @ Ranjeet Kumar Mandal as a resolution was passed on 30.12.2022 to sell the two plots i.e. RC-159 and RC-160 in the name of Smt. Chancaliya Devi and Smt. Meera Devi. The sale-deed, if any, has been executed by Ranchhor Das @ Ranjeet Kumar Mandal only, the holder of Power of Attorney. The applicant is the Director of the Company and has nothing to do with the said offence.

6. Learned counsel for the applicant has further stated that the applicant is the bonafide person and the present FIR has been instituted at the behest of the informant on account of failure of the agreement entered into between the company of the applicant and the wife of the informant Kavita Chauhan. The said notarial agreement was entered into between the parties on 11.10.2021 and was later on withdrawn as the money has already been transferred to the account of the wife of the informant. Learned counsel has further stated that the matter of civil in nature has been converted into a criminal one by the informant.

7. Learned counsel for the applicant has also placed much reliance on the statement of the informant recorded by Investigating Officer whereby it is stated that the main perpetrator of crime is Ranchhor Das @ Ranjeet Kumar Mandal. Even in the said agreement, it is mentioned that Anvi Mangalam Town (Royal City) shall be developed by the informant and the Company.

8. Learned counsel for the applicant has further stated that the applicant does not have any criminal history to his credit. The co-accused

Punit Khurana, who was also the Director of the Company, has already been enlarged on regular bail by this Court vide order dated 10.10.2023 passed in Criminal Misc. Bail Application No. 40381 of 2023. The applicant had executed a supplementary sale-deed by which they got corrected the surroundings of the said plot which were inadvertently mentioned in the said sale-deed.

9. Learned counsel for the applicant has next stated that the informant is not the aggrieved person as the registry of the Plot No. RC-160 has been executed in favour of one Meera Devi and it was she who could have instituted the FIR, if any. The same has not been done. The applicant is a stranger to the proceedings and has no right to institute the FIR. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.

Arguments on behalf of the informant and learned AGA

10. On the other hand, learned counsel for the informant as well as learned A.G.A. have vehemently opposed the prayer for grant of anticipatory bail on the ground that the applicant has not annexed any map indicating that the plots are different.

11. Learned counsel for the informant has further stated that the *modus operandi* of the applicant was that at the time of selling the plots to Heera Devi which was subsequently sold to the informant, the plot number was mentioned C-160 in the colony (ROYAL CITY) which was developed by the Company of the applicant. The applicant had later on changed the name of the colony to KRISHNA VILLAGE and the plot number has been deliberately mentioned as RC-160. The said sale-deed categorically indicates the surroundings of the said plots to be C-161, C-159 and C-205 and on the front, there was a road of 18 feet. Learned counsel has further stated that had the plot been RC-160 then how could the surroundings be Plot Nos. C-161, C-159 and C-205. The said forgery is but evident at the face of it.

12. Learned counsel for the informant has further stated that a preliminary enquiry was taken up by the police before the institution of the present FIR and the complete *modus operandi* of the applicant is evident in the said report submitted by Investigating Officer on 28.06.2023. The promoter of the Company Rajeev Kumar Ashish had instituted the FIR against the Investigating Officer and other persons at Lucknow just to dissuade them from pursuing the matter. The applicant is hand in glove with the co-accused persons in the larger conspiracy to dupe the innocent persons.

CONCLUSION:-

13. Considering the rival submissions advanced by the learned counsel for the parties and taking into consideration the fact that the applicant got executed the said sale-deed of Plot No. C-160 of the Company by re-numbering it as RC-160 to another person coupled with the fact that the co-accused person has been enlarged on regular bail and not on anticipatory bail, I do not find it a fit case to enlarge the applicant on anticipatory bail. The arguments tendered at Bar pertain to regular bail application and cannot be agitated u/s 438 Cr.P.C.

14. In view of the aforesaid discussions, the present anticipatory bail application is **rejected**.

Order Date :- 17.11.2023

Siddhant

(Justice Krishan Pahal)