

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

Judgment delivered on : December 22, 2015

+ **BAIL APPLN. 2025/2014**

RAJESH CHAUDHARY Petitioner

Through: Mr.Jatan Singh, Advocate with
Mr.Dhan Mohan, Advocate and
Ms.Tanu B.Mishra, Advocate.

versus

THE STATE Respondent

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for the State
Mr.Manish Raghav, Advocate for
Complainant.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. The petitioner has preferred the present petition under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as Cr. P.C.), seeking anticipatory bail in case registered as 448/2014 under Sections 467/468/120-B/471/420 of IPC, Police Station Vasant Kunj North, New Delhi.

2. A perusal of the record of this case reveals that there is a

property dispute between the complainant-Arun Kumar and the petitioner and both the parties have filed various litigations against each other. Apart from the present case, another case being FIR No. 225/2013 is pending which was lodged by the same complainant and in which the petitioner has been granted anticipatory bail and trial is going on. Transactions in respect of sale of property have been disputed, veracity of documents are alleged, initiation of case under Section 138 of Negotiable Instruments Act, 1881 ('N.I.Act') and dismissal thereof is also alleged.

3. Firstly, the deal for sale of property No.4402, Sector-B, pocket-5&6, Vasant Kunj, New Delhi was conducted, documents of which were verified by the ICICI Bank which were found to be genuine. Loan was sanctioned by the bank and it released a sum of Rs.47 lac in favour of Mr.S.P. Saini by way of pay order. Thereafter on 03.12.2008 DDA locked the said flat without giving any notice or intimation. Petitioner filed writ petition vide no. 8814/2008 on 08.12.2008 in High Court of Delhi, in which this Court directed the DDA to make proper inquiry but till date since the year 2009, neither DDA nor the Sub registrar made any inquiry and ultimately the

petitioner surrendered the possession of the Flat to DDA.

4. Secondly, the complainant alongwith his brother Hira Lal again persuaded the petitioner for purchasing another flat bearing No. SFS Flat No.343, Block GH 13, Paschim Vihar, New Delhi and the petitioner also handed over four account payee cheques. To satisfy himself, the petitioner asked for papers and property and that is when he came to know of the forged company M/s. Lakeshore Builders Pvt. Ltd and thereafter he instructed the bank to stop payment of the cheques issued to Mr. Arun Kumar. Mr. Arun Kumar was also instructed by the complainant not to deposit the cheque. But the complainant filed a criminal case under Section 138 of N.I.Act against the petitioner in which the learned Chief Metropolitan Magistrate acquitted the petitioner on 13.05.2013 with remark that Mr. Arun Kumar filed a forge and a fabricated case. Thereafter, petitioner filed a criminal case under Sections 416/417/418/419/420/467/468 of IPC against Mr. Arun Kumar, Hira Lal as well as against M/s. Lakeshore Builders Pvt. Ltd. in the year 2011 which is still pending.

5. Thirdly, in an attempt to falsely implicate the petitioner FIR No. 225/2013 in Police Station Mianwali Nagar was registered by the

complainant and his brother, wherein it has been proved that Mr. Arun Kumar used to forge and fabricate documents and cheat the public at large. However, petitioner was granted anticipatory bail on 30.11.2013 by the concerned Court.

6. The Counsel for the petitioner further contended that since the year 2008, the petitioner is waiting for inquiry report on behalf of the DDA and the petitioner has not caused any harm either to the government or to any other person. Allegations regarding threatening with dire consequences to the petitioner on 02.08.2014 while appearing before the concerned Court have also been alleged by the petitioner. It is further contended that the present FIR is already under investigation by the DDA and the petitioner is suffering the most in due to the case as he has lost all his savings as well as the Flat in question of which he is a bonafide purchaser and he is already contesting the case of the ICICI Bank due to the illegal activities of the complainant – Mr. Arun Kumar.

7. While narrating the facts, dealing with different transactions in respect of different flats and the incidents of allurements to the petitioner by the complainant and finally surrendering the flat to

DDA and even thereafter continuing payment of instalments of the said flat to the ICICI Bank, the counsel for the petitioner expressed the bonafide of the petitioner.

8. The details and gist of litigations pending before the petitioner and the complainant are not required to be considered at this stage and what this Court needs to consider is that whether the petitioner has been able to make out a prima facie case for grant of anticipatory bail in this case.

9. Mr. Jatan Singh, counsel appearing on behalf of the petitioner contended that the petitioner has already been granted interim protection by order dated 23.08.2014 and he had already joined the investigation on 25.08.2014, 27.08.2014, 29.08.2014, 30.08.2014, 04.09.2014 and 05.09.2014.

10. Ms. Manjeet Arya, Additional Public Prosecutor for the State submitted on the last date that the petitioner has joined the investigation twice but the third time, he did not co-operate in the investigation, however, the file of the investigation does not show even an iota of word to this effect. Apparently, there is no necessity of

custodial interrogation.

11. After hearing the aforesaid submissions made by learned counsel for the petitioner and having gone through the impugned order and the material placed on record, this Court observes that the petitioner was granted interim protection on 11.09.2014 and since then, he is on anticipatory bail. In view of the facts that the petitioner has joined the investigation and that there is no need for custodial interrogation, accordingly, it is hereby ordered that in the event of arrest, the petitioner – Rajesh Chaudhary be released on bail subject to furnishing of his personal bond in the sum of Rs.50,000/- with two sureties of the like amount to the satisfaction of the arresting officer.

12. It goes without saying that anything observed in this petition shall not have any bearing on the merit of the case during trial.

13. With aforesaid directions, both the bail applications stand disposed of.

14. Dasti.

(P.S.TEJI)
JUDGE

DECEMBER 22, 2015/pkb

