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

+ **BAIL APPLN. 741/2015**

AJAY CHOWDHRY

..... Petitioner

Through: Mr. Ratan Singh and Mr. Manish K.
Chaudhary, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Yogesh Verma, APP for State.
Mr. Viraj Datar, Mr. G. Narayan and
Mr. Vineet Jhanjhi and Mr. Karan
Mehta, Advs.

AND

BAIL APPLN. 742/2015

AJAY CHOWDHRY

..... Petitioner

Through: Mr. Ratan Singh, Mr. Manish K.
Chaudhary and Mr. Jai Pratap, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Yogesh Verma, APP for State.
Mr. Viraj Datar, Mr. G. Narayan and
Mr. Vineet Jhanjhi and Mr. Karan
Mehta, Advs.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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07.05.2015

Both the FIRs, that is, FIR No. 229/2006 under Sections
417/420/465/467/468/471/ 120-B IPC and FIR No. 612/2007 under Sections
447/420/511/120-B IPC have been registered at police station M.S. Park, on

the complaint of O.P. Sachdeva who has claimed himself to be one of the directors of M/s Capital Land Builders Pvt. Ltd. It is stated that other directors and/or shareholders are his relatives.

Learned Additional Public Prosecutor, who is assisted by the counsel for the complainant, submits that petitioner had sold some of the lands of M/s Capital Land Builders Pvt. Ltd., by claiming himself to be director of the said company. He even uploaded Form-32 on the website of Registrar of Companies claiming himself to be director of the said company, inasmuch as, one resolution alleged to have been passed by the EGM of the company as propounded by him. Accordingly, complainant party filed a civil suit being CS (OS) 1906/06 against Shaheed Memorial Society and others wherein petitioner has also been impleaded as one of the defendants. In the suit injunction order was passed against the defendants including the petitioner from acting as shareholders and directors of the company and also not to deal with property of the company. However, in utter violation to the said order, petitioner continued to proclaim himself to be director of the company and dealt with the immovable properties of the company, which are involved in these FIRs. It is also the case of the prosecution that petitioner has scant regard for the law and has even threatened the witnesses.

Adverse remarks have been passed against the petitioner by the Division Bench, inasmuch as, contempt proceedings are pending against him. It is further submitted that keeping in mind serious nature of offence and conduct of the petitioner he is not entitled to bail.

Learned counsel for the petitioner, on the other hand, has contended that M/s Capital Land Builders Pvt. Ltd. was incorporated in the year 1959 by the mother of petitioner with 15 shares of Rs.100/- each; out of which she subscribed 10 shares; whereas 5 shares were held by Kishore Lal Sachdeva, predecessor-in-interest of the complainant-O.P. Sachdeva. It is further contended that subsequently share holding was increased and 500 shares were allotted to Ch. Brahm Prakash, father of petitioner who, in turn, transferred these shares to Shaheed Memorial Society, founded by the family members of Ch. Brahm Prakash. It is submitted that complainant-O.P. Sachdeva and his other family members claims that they had purchased 500 shares from Saheed Memorial Society and, thus, had become majority share holders in M/s Capital Land Builders Pvt. Ltd. It is submitted that shares were never transferred by Shaheed Memorial Society and their claim is based on fabricated transfer deeds. Despite directions of the Court O.P. Sachdeva group failed to produce all the original transfer deeds.

Ultimately, they produced only 5 transfer deeds in respect of 260 shares which clearly indicate that same are fabricated documents. Some of the stamps affixed on the said transfer deeds were not even printed as on the date when the same have been purportedly executed and this fact is evident from the reply of Indian Security Press pursuant to a RTI query raised by the petitioner. It is further contended that vide EGM dated 10th March, 2006, O.P. Sachdeva, Ankur Sachdeva and Promila Kishore were removed as 'directors' and in their place four new directors were appointed. It is contended that said EGM is under challenge in the pending civil suit.

Learned counsel for the petitioner has further contended that FIR was lodged in the year 2006 and 2007 and the investigation continued wherein petitioner participated and supplied necessary documents. He further submits that investigation is complete and charge-sheets have been filed in the Court on 13th February, 2015 and the matter is listed for arguments on charge on 11th May, 2015. Petitioner is not required for any further investigation. Petitioner is in judicial custody for more than six months. Trial is likely to take time and petitioner cannot be kept in incarceration throughout the trial. Reliance has been placed on Sanjay Chandra and Others vs. CBI wherein Supreme Court has observed as under :-

29. When the under trial prisoners are detained in jail custody to an indefinite period, Art. 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is : whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet. This Court, in the case of *State of Kerala vs. Raneef* (2011) 1 SCC 784 2011 Indlaw SC 1 has stated :-

“In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Art. 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken’s novel A Tale of Two Cities, who forgot his profession and even his name in the Bastille.”

30. In ‘Bihar Fodder Scam’, this Court, taking into consideration the seriousness of the charges alleged and the

maximum sentence of imprisonment that could be imposed including the fact that the appellants were in jail for a period more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pre-trial prisoners would not serve any purpose.”

As regards alleged threat to the witnesses is concerned, it is submitted that no threat has been extended to any witness, inasmuch as, no FIR in this regard has been registered. It is further submitted that petitioner is in custody for the last six months and probability of his threatening the witnesses was not there.

I have considered the rival contentions of the parties and perused the voluminous material placed on record. In the facts and circumstances noted hereinabove, it is ordered that petitioner be released on bail in both the FIRs subject to his furnishing a personal bond in the sum of ₹1 lac (Rupees One Lac Only) each with one surety each in the like amount to the satisfaction of trial court. Petitioner shall not influence the witnesses during the trial.

Both the bail applications are disposed of in the above terms.

Dasti.

A.K. PATHAK, J.

MAY 07, 2015

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