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

Judgment delivered on: 31st August, 2015

+ **BAIL APPLICATION NO. 1788/2015**

SREE BHAGWAN Petitioner
Represented by: Mr.Rakesh Khanna, Senior
Advocate with Mr.Sunil Naagar
and Mr. Ankur Prakash, Advocates.

Versus

STATE GOVT OF NCT OF DELHI Respondent
Represented by: Mr.Izhar Ahmad, Additional
Public Prosecutor for the
State with SI Praveen Attri, P.S.
Aman Vihar.
Mr. Ram Nath Singh Kushwaha,
Advocate for the Respondent
No.2/Complainant.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A.No.12613/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

BAIL APPLICATION NO. 1788/2015

1. By way of this petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner seeks directions to release him on bail in case bearing FIR No.1243/2014 registered at Police Station Aman

Vihar, Delhi, for the offences punishable under Sections 420/467/471/120B/34 IPC.

2. Learned senior counsel appearing on behalf of the petitioner submits that after completion of investigation, chargesheet has been filed by the police and the matter is pending for hearing arguments on charge. He submits that the FIR in question was registered on the complaint made by Smt. Mithlesh alleging that some persons were forcibly and illegally trying to take possession of the plot bearing No. 18, Khasra No. 1170, Village Kirari Suleman Nagar (abadi of Prem Nagar), Delhi, admeasuring about 150 square yards, which was purchased by her from one Rakesh Verma, who in turn had purchased the same from one Smt. Dayawati.

3. It is averred in the petition that the person alleged to have been trying to take possession of the said plot was identified as 'Satyrprakash', who claimed that the said plot was purchased by his brother Ashok from Sree Bhagwan, the petitioner herein

4. Thus, there are two sets of persons claiming ownership over the plot in question.

5. As per the first chain, as stated by the complainant, Chet Ram and Kuldeep sold the plot to Radhey Shyam, who died on 06.07.1990. Thereafter, wife of Radhey Shyam, namely, Smt. Dayawati, sold the same to Rakesh Verma, who in turn sold it to the complainant Smt. Mithlesh.

6. Whereas as per the other chain, as per Ashok, Chet Ram and Kuldeep sold the plot in question to Radhey Shyam, who sold it to the petitioner before the year 1990 and thereafter, the petitioner sold the plot to Ashok Kumar on 22.05.2012.

7. Learned senior counsel further submits that the aforesaid plot came

in favour of the petitioner as per Annexure-C annexed at page 39, i.e., Deed of Family Arrangement dated 04.12.1995. If this document was prepared on that date, there was no question to have another document of the year 1995 of selling the property in favour of Ashok Kumar by Radhey Shyam. Moreover, a civil suit for declaration, mandatory and permanent injunction was filed by Smt. Dayawati against the complainant and Rakesh Verma, wherein the petitioner was not arraigned as a party.

8. In addition to that, qua the plot in question, another case bearing CS(OS) No.4097/2014 has been filed by Ashok Kumar against the complainant and one Mohd. Irshad. In the said suit also, the petitioner has not been arraigned as a party. Thus, there are disputed facts qua the property in question.

9. Moreover, the co-accused, i.e., Manmohan son of the petitioner has already been released on anticipatory bail on 27.05.2015 and the petitioner is in custody since 24.04.2015.

10. Learned Additional Public Prosecutor appearing on behalf of the State submits that the plot of land measuring 133 square yards belonged to the petitioner and he was competent to dispose of the same in the manner he liked. He further submits that the petitioner claims to have purchased the adjoining plot of 150 square yards from his brother-in-law Shri Radhey Shyam in the year 1995, whereas the said Radhey Shyam had already died on 06.07.1990. Thus, the petitioner prepared the forged documents like GPA, Agreement, Affidavit and receipt dated 04.12.1995 in his successor's interest, i.e., Ashok Kumar and accordingly, sold the plot in question to him on 22.05.2012.

11. Be that as it may, there are disputed facts qua the property in question and the same can be ascertained during trial.

12. In view of the above noted facts, I am of the considered opinion that the petitioner has made out a case for releasing him on bail.

13. Accordingly, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned Trial Court. The petitioner shall not, in any manner, influence the witnesses and tamper with the evidence.

14. In view of the above, the present petition is allowed.

15. A copy of this order be given *dasti* to the learned counsel for the parties.

**SURESH KAIT
(JUDGE)**

AUGUST 31, 2015

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