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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 23.12.2015

BAIL APPLN. 2441/2015

PRADEEP PALIWAL

..... Petitioner

Through: Mr. Amit Sibal, Advocate with Mr.
Ankur Mahindro and Mr. Harish
Malik, Advocates.

versus

STATE

..... Respondent

Through: Ms. Radhika Kolluru, APP.

Mr. Ashok Bhasin, Senior Advocate
with Mr. Salman Hashmi and Mr.
Zeeshan Hashmi, Advocates for
complainant.

Complainant Mr. R.S. Chabbra in
person.

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is an application under Section 438 Cr.P.C 1973 seeking pre- arrest bail in FIR No. 494/2015, under Section 420 IPC, registered at Police Station - Karol Bagh.

2. Mr. Amit Sibal, learned counsel appearing on behalf of Mr. Pradeep Paliwal, the applicant herein and Mr. Ashok Bhasin, learned senior counsel appearing on behalf of the complainant Mr. R.S. Chhabra state that with the assistance and advice of counsel the parties have arrived at an amicable resolution of the dispute that led to the registration of the subject FIR. The terms and conditions of the aforesaid settlement are encapsulated in the Memorandum of Understanding dated 23rd December, 2015 which is duly signed by the parties, who are present in court today and have been duly identified by their respective counsel. The said Memorandum of Understanding has been handed over in court today. The same is taken on record. The terms and conditions of the afore-stated Memorandum of Understanding are as follows:-

- “1. That second party undertakes to execute a registered sale deed of Shop No. 3 at freehold property bearing no. 10466, 10463, Plot No.42, Block 15-A, Western Extension Area, Ahmal Khan Road, Karol Bagh, New Delhi comprising of Basement, Ground floor, First Floor, Second Floor, Third Floor and Roof in favour of First Party within two months of signing of present agreement. The said property belongs to MVM Developers Pvt Ltd. Second Party will obtain a Board Resolution from MVM Developers Pvt. Ltd for execution of sale deed in favour of First Party at his responsibility within two months from date of signing of present agreement. It is further agreed that in case the Second party fails to get the Sale Deed executed the present MOU will become null and void.

2. That in addition to what is stated above the Second party further undertakes to give Rs. Seven Crores Thirty five lakhs to the first party at the time of registration of sale deed as stated in para 1.
3. That simultaneously upon registration of the sale deed as mentioned in para 1 the First Party will sign No objection affidavit and undertaking for quashing of FIR No. 494 of 2015. The Second Party shall file a petition under section 482 Crpc for quashing of FIR No.494/2015 before the Hon'ble High Court and the First Party undertakes to sign No objection affidavit and make necessary statements before Hon'ble High Court for the quashing of the said FIR. In case First party fails to appear before Hon'ble High Court for making statements for the quashing of the said FIR the present MOU will become a deemed NOC/No objection for quashing of Said FIR which the Hon'ble Court may quash without the presence of the First Party.
4. That the Second Party also undertakes not to raise any objection/dispute regarding the absolute and sole ownership and possession of the said property described in point no.1, in favour of the First Party after executing the sale deed subject to First party giving No objection for quashing of FIR 494/2015.
5. The first party undertakes to hand over the vacant peaceful physical possession of the remaining portion of the property bearing 10463 and 10466, Plot no. 42 and 43, block no. 15A, Western Extension Area, Ajmal Khan Road, Karol Bagh,

New Delhi to their respective owners i.e. Holystar Natural Resources Pvt Ltd and MVM Developers Pvt Ltd respectively at the time of registration of sale deed as stated in para 1. First party further undertakes not to claim any right, title or interest in the said properties belonging to Holystar Natural Resources Pvt Ltd and MVM Developers Pvt Ltd.

6. That the First Party undertakes to withdraw Civil Suit No. 161/14 before four days of the registration of the sale deed as mentioned in para no 1 of the present MOU. In case the Second party fails to execute the Sale deed as mentioned in para 1 the said suit will be restored.
7. That in the event that the second party fails to fulfil any of the aforesaid terms, the present MOU will become void and the FIR No. 494/2015 will be restored automatically or at the behest of the First Party and interim bail granted to him may be cancelled by Hon'ble Court. The second party will be liable to be prosecuted under criminal and civil laws.
8. That simultaneously upon registration of the sale deed as mentioned in para 1 the First Party will sign No objection affidavit and undertaking for quashing of FIR No. 494 of 2015. The Second Party shall file a petition under section 482 Crpc for quashing of FIR No. 494/2015 before the Hon'ble High Court and the First Party undertakes to sign No objection affidavit and make necessary statements before

Hon'ble High Court for the quashing of the said FIR.

9. That in the event of breach of any of the terms in the present MOU by the First Party the Second party shall take his necessary legal recourse both civil and criminal in nature as per law. In addition to the above First Party shall return the monies given to him by the Second party as per the present MOU and the sale deed executed in favour of First Party will become null and void.

10. Both parties declare and confirm that after executing the present MOU, all other agreements/contracts/MOU/understanding. Possession letters/loan papers/receipts signed between the parties will stand cancelled/null and void other than the present MOU.

11. That the parties agree and undertake to abide by all the terms and conditions as meted out in the present MOU.

12. That First Party has taken some blank undated cheques of 25 lakhs each and another set of cheques in his name from account no.'s C/A 344601010035450 and SOD 344604050000003 Union Bank, Vasant Vihar, New Delhi in name of Holystar Natural Resources Pvt. Ltd. towards security. First Party undertakes to return all the said

cheques at the time of registration of sale deed as stated in para 1. It is agreed between the parties that in case First party fails to return any of the aforestated cheques an undertakinig will be provided to Second Party by the First Party that the said cheques will not be used by anyone in any manner whatsoever. The said account no.s C/A 344601010035450 and SOD 344604050000003 Union Bank, Vasant Vihar, New Delhi in name of Holystar Natural Resources Pvt. Ltd have been made inoperative by the second party and no cheques issued from the above accounts shall be valid or used for any purpose whatsoever in fture by the first party or their agents/persons etc.

13. That in terms of the present MOU, both the parties agree and undertake that all the disputes and differences between the parties stand settled and resolved. No one will raise any grievance/claim qua each other in view of the present MOU. In furtherance to the above both the parties declare and confirm that as per the present MOU they will have no claim whatsoever qua each other.

14. That the parties to the present MOU have arrived at understanding mutually and without any coercion, pressure or undue influence from any corner and undertake to abide by the terms of present MOU. ”

3. The agreement entered into between the parties is lawful and is accepted. The parties undertake and are directed to comply with the terms and conditions of the said memorandum of understanding dated 23rd December, 2015 without demur.

4. In view of the foregoing Ms. Radhika Kolluru, learned APP for State appearing on behalf of the State submits that they would not insist on custodial interrogation of the applicant herein.

5. In the present case it is observed that the applicant has clean antecedents and is not wanted in any other case. Furthermore, there is no hint or allegation that he will tamper with the evidence or influence the witnesses. As aforesaid the applicant and the complainant have already entered into a memorandum of understanding.

6. Resultantly, the present application is allowed. In the event of his arrest, the applicant shall be released on bail on his furnishing personal bond in the sum of 50,000/- (Rupees Fifty Thousand) with two sureties of the like amount to the satisfaction of the Arresting Officer/Station House Incharge subject to the further condition that he shall make himself available for interrogation as and when called upon by the concerned police officer.

7. Bail Application 2441/2015 stands disposed of.

SIDDHARTH MRIDUL, J

DECEMBER 23, 2015

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