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

Judgment delivered on: 24th November, 2015

+ **BAIL APPLN. 2535/2015**

SMT KAMLESH & ORS

..... Petitioners

Represented by: Mr.R.P.Singh, Adv.

versus

STATE

..... Respondent

Represented by: Ms.Meenakshi Chauhan,
APP for the State with SI
Gaurav Kumar, PS Nand
Nagari, Delhi.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A.No.17051/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

Bail Appln No.2535/2015

1. By way of this petition filed under Section 438 of the Code of Criminal Procedure, 1973, petitioners seek direction for grant of anticipatory bail to them in case FIR No.957/2015 registered at Police Station Nand Nagari, Delhi, for the offences punishable under Sections 380/448/ 457/ 506/34 of the IPC.

2. Learned counsel appearing on behalf of the petitioners submit that the aforesaid case was registered on the complaint of one Amit Kumar

s/o Sh Satveer Giri staying at House No.D-3, Alaknanda Apartments, Surya Nagar, Ghaziabad, UP. As per FIR, he had purchased house bearing No.B-4/416, Nand Nagari, Delhi in the year 2012 and possession of ground floor was with him. It is admitted that first floor was in possession of Subhash Chand, one of petitioners. He alleges that there was single bed, three iron chairs, two chairs of sofa, gas oven and utensils. The petitioners had broke open the lock and committed theft of aforementioned items.

3. The case of the petitioners is that the complainant wanted to tress pass into the property of the petitioners and therefore, the complainant made a complaint to the police on 15.10.2014 i.e. prior to the registration of FIR. The petitioner No.1 became owner of the property by virtue of Will dated 12.11.2002 and she has filed a probate petition in respect of said Will, which is pending adjudication.

4. If it is believed that the complainant purchased the property in the year 2012, it is not clear as to how he was staying Ghaziabad and to this effect there is no explanation as to who was the occupant of the property, whether on rent or otherwise.

5. Without commenting upon the merits of respective contentions of parties as they are claiming rival rights over the property in question, I am of the opinion that petitioners have made out a case for grant of anticipatory bail in their favour.

6. Consequently, in the event of arrest of petitioners in aforementioned case, the Investigating Officer/ SHO concerned is directed to release them on bail on their furnishing a personal bond in the sum of Rs.10,000/- with

one surety in the like amount each to the satisfaction of the Investigating Officer/SHO concerned. The petitioners shall join the investigation as and when called for by the Investigating Officer.

7. I hereby make it clear that above observation will not affect the prosecution case in any manner.

8. In above terms, instant bail application stands allowed and disposed of.

9. Order *dasti*.

**SURESH KAIT
(JUDGE)**

NOVEMBER 24, 2015

M/jg