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

+ **CRL.REV.P. 77/2016**

RAVI KANT SHARMA

..... Petitioner

Through: **Mr. Narender Sharma, Advocate**

versus

STATE & ORS

..... Respondents

Through: **Ms. Alpana Pandey, APP for the State
with SI Anand Kumar, PS Mehrauli**

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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01.02.2016

Crl. M.A.1767/2016

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.REV.P. 77/2016

1. This revision petition has been preferred by the complainant Ravi Kant Sharma with a prayer that anticipatory bail granted to respondent nos.2, 3 & 4 by learned ASJ vide order dated 10.12.2015 may be set aside and the matter may be remanded to learned ASJ for deciding the matter afresh on the basis of record available in judicial file.
2. Learned counsel for the petitioner has submitted that learned ASJ has failed to consider that the FIR in question was not in respect of trespassing the land, the dispute was for creation of forged documents. The investigation in the matter cannot be completed if the accused persons remain on

anticipatory bail. Their release on anticipatory bail will lead to improper investigation and they are also likely to disturb the investigation as well.

3. The case FIR No.181/2015, PS Mehrauli has been registered for alleged commission of offence under Section 468/420 IPC on the basis of statement made by the complainant/revisionist.

4. After considering the rival contention, while granting anticipatory bail the learned ASJ has passed the following orders:

“On a consideration of the rival submissions, without any observations on the merits or demerits of the case, it is apparent that there are conflicts in relation to the title of the property in question and that there are two civil suits pending and Ms. Maya Devi, the stated caretaker of the applicants is also indicated to be having statements of either side and also professing to be the owner of the property in question. There is also an issue in relation to the khasra number in which the property allegedly falls as being khasra no..271 or khasra no.274.

Taking the totality of the circumstances into account the applicants, in the event of arrest, are allowed to be released on bail on filing of bail bond in the sum of Rs.1,00,000/- each with one surety each in the like amount to the satisfaction of the IO/SHO concerned with directions that they shall not leave the country and shall join the investigation of the case as and when required and shall not intimidate the witnesses neither themselves nor through any other person and they are further directed not to commit any offence whatsoever and in the event of their being any FIR or Kalandara registered against them, the State shall bring the same to the notice of the Court.”

5. In the instant case learned ASJ has granted anticipatory bail after taking note of civil litigation between the parties, stay order operating in the civil dispute pending before the High Court in CS(OS) No.3185/2014 noting that no observation has been made on merits or demerits of the case, further

observing that there is also a issue as to in which khasra number i.e. khasra no.271 or 274 dispute the property falls.

6. In the case ***Harari Lal Das vs. State of West Bengal and Anr.***, the Supreme Court has dealt with the grounds to be considered while granting bail and those to be kept in mind while interfering with the order granting bail. The relevant paras of the report as extracted hereunder :

'8. Although the High Court did notice in the impugned order that the considerations which should be in the mind of the Court while considering the prayer for grant of bail are not the same for the purpose of cancellation of bail, yet we find that these considerations were not kept in mind and the order of the Sessions Judge granting anticipatory bail was set aside.

9. *In Dolat Ram And Ors. v. State of Haryana (1995) 1 SCC 349, this Court held :*

4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the Court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening

circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.'

7. There is no material on record to suggest that after releasing on anticipatory bail, any of the respondents No.2 to 4 had tried to hamper the investigation or influence the witnesses or misused their liberty.
8. The learned ASJ has already considered all the submissions while granting anticipatory bail to the respondents no.2 to 4 and exercised the discretion in a judicial manner.
9. The impugned order does not warrant any interference by this Court in exercise of its revisional jurisdiction.
10. The revision petition is dismissed.

PRATIBHA RANI, J.

FEBRUARY 01, 2016

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