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

Judgment delivered on : May 23, 2016

\+ BAIL APPLN. 346/2016

RAHUL DEVRALIA ..... Petitioner

Through: Mr.Jinendra Jain, Advocate.

versus

STATE OF NCT OF DELHI & ANR ..... Respondents

Through: Ms. Meenakshi Chauhan, Additional Public Prosecutor for the State Mr.I.S.Chauhan and Mr.Manoj Kumar, Advocates for UCO Bank.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. By this petition filed under Section 439 of Cr. P.C., the petitioner seeks bail in a case registered as FIR No. 81/2011 under Section 419/420/468/471/34 of Indian Penal Code, at Police Station Maurya Enclave, Delhi.

2. This is a case of cheating in which the petitioner has played a role of buying a property No.Flat No.193-B, on First Floor in Block A-2, situated in Paschim Vihar, New Delhi by taking a home loan of Rs.39.50 lacs from UCO Bank, Zonal Office, New Delhi by representing himself as Naresh Gupta. Though the bank verified the title of the seller – Narender Kumar Bajpai and after verification, the loan was sanctioned by the bank in favour of the seller – Narender Kumar Bajpai. Draft was also handed over to the seller and

registration of the property was also transferred in the name of the purchasers. The original title deeds were mortgaged with the UCO Bank, as security of the loan amount. An equitable mortgage over the said property was created in the books of the bank. After disbursement of loan, the bank took legal opinion to ascertain genuineness of title deeds deposited with the bank and they were found to be fake. Accordingly, the present FIR was registered at the instance of the complainant - Anil Kumar, Zonal Manager in UCO Bank at its Zonal Office, New Delhi.

3. Investigation started and during the investigation, it was revealed that the petitioner took loan of Rs.40 lacs and Rs.37 lacs from J&K Bank and PNB respectively against the same flat in the same manner. Photographs of the petitioner were checked with the bank documents as well as in the office of the Sub-Registrar and the same were found to be of the petitioner. It was only when, the petitioner was arrested on 16.01.2014 by the officials of Crime Branch under Section 41.1 of Cr.P.C., on being found in possession of a stolen car, which was the subject matter of FIR No. 23/14 under Section 379 IPC, Police Station Mukherjee Nagar, Delhi. Upon interrogation, the petitioner disclosed his involvement in the present case as well as in case FIR No. 6/14 under Section 406/420/34 of IPC, Police Station Najafgarh, Delhi. Accordingly, the petitioner was arrested in the present case on 17.04.2014, after taking permission from the Hon'ble Court. It has also been disclosed by the petitioner in his statement that he had played fraud with J&K Bank, Pitampura, Delhi and PNB, Paschim

Vihar by obtaining loan from the said banks against the aforesaid flat in the similar manner. The factum of disclosure by petitioner was got verified and the same was found to be correct. It has also been revealed that the petitioner took loan of Rs.40 lacs and Rs.37 lacs from J&K Bank and PNB respectively against the said flat by impersonating himself as Naresh Gupta and by furnishing forged and fabricated documents to the said banks. All the remaining accused – (1) Tarun Kumar @ Tarun Gupta, (2) Neha Gupta and (3) Narender Kumar Bajpai are absconding and have been declared proclaimed offenders vide order dated 05.09.2014 by the Learned ACMM, Rohini Court, Delhi.

4. Mr. Jitendra Jain, learned counsel for the petitioner contended that the petitioner is not involved in the aforesaid incident and he has been falsely implicated by the police. It is further contended that the petitioner is in jail for more than 21 months and despite filing of charge sheet in April 2014, there is no progress in the trial and till date the charges have not been framed against the petitioner.

5. It is contended that the evidences are documentary in nature and there is no question of any tampering with the evidence and apart from the aforesaid, the charge sheet in the case has been filed and the trial is likely to take time. It is further contended that the petitioner is a married man and has small children and a wife who are dependent upon him and the petitioner is the sole bread earner of his family, therefore the petitioner ought to be granted bail in the present case.

6. Ms. Meenakshi Chauhan, Additional Public Prosecutor for the State vehemently opposed the aforesaid contentions made on behalf of the petitioner and submitted that the petitioner is *prima facie* guilty of impersonating himself as Naresh Gupta not only in the present case, but he is also involved in two other cases of the same nature in which he has defrauded two other banks, i.e., J&K Bank and PNB in the same manner. Apart from this, the other co-accused have not yet been arrested and they have been declared proclaimed offenders. In case the petitioner is released on bail, there is a strong apprehension that the accused/petitioner will misuse it and may affect the arrest of co-accused. Therefore, in such a situation, the present petitioner does not deserve grant of bail.

7. I have heard the submissions and counter submissions made on behalf of both the sides. This Court observes that the present case was registered in the year 2011 and the petitioner was arrested in the present case only on 17.04.2014 and in another FIR No.23/14 under Section 379 of IPC. It was only upon interrogation in the said case, that the petitioner disclosed his involvement in the present case. Not only this, the Court also observes that the petitioner has defrauded not only the complainant bank but also the other two banks, namely, J&K Bank Pitampura, Delhi and PNB, Paschim Vihar, and that too in the same manner, i.e., by impersonating himself as Naresh Gupta and by furnishing forged and fabricated documents to the said banks.

8. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee*** **(2010) 14 SCC 496**, the Hon'ble Supreme Court dealt with the basic principles

laid down in catena of judgments on the point of granting bail. The Court proceeded to enumerate the factors:

> *9. ... among other circumstances, the factors [which are] to be borne in mind while considering an application for bail are:*
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> *(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
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> *(ii) nature and gravity of the accusation;*
>
> *(iii) severity of the punishment in the event of conviction;*
>
> *(iv) danger of the accused absconding or fleeing, if released on bail;*
>
> *(v) character, behaviour, means, position and standing of the accused;*
>
> *(vi) likelihood of the offence being repeated;*
>
> *(vii) reasonable apprehension of the witnesses being influenced; and*
>
> *(viii) danger, of course, of justice being thwarted by grant of bail.*

9. Considering the aforesaid facts and circumstances of the present case and the fact that the trial is at the evidence stage, in the considered opinion of this Court, it would not be just and fair to appreciate the evidence recorded before the Trial Court and adjudicate upon them, at the stage of considering the application for bail. Therefore, while perusing the charge sheet, and considering the

gravity of offence and the nature and manner in which the petitioner has committed the crime, this Court is not inclined to grant bail to the petitioner at this stage.

10. Resultantly, in the considered opinion of this Court, the facts emerging from the record culminates into dismissal of the present bail application. Accordingly, the present bail application filed by the petitioner is dismissed at this stage.

11. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

12. With aforesaid direction, the present bail application, filed by the petitioner stand disposed of.

(P.S.TEJI)
JUDGE

MAY 23, 2016
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