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

+ CRL.REV.P. 133/2016

S M ASHFAQUE USMANI

..... Petitioner

Through: Mr.Abhay Kumar, Mr.Khalid Akhtar
& Mr.Bilal Khan, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms.Rajni Gupta, APP for the State

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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24.02.2016

1. The petitioner is aggrieved by the order dated 10th February, 2016 passed in Bail Application No.598/2016 in case FIR No.710/2015 under Section 420 IPC PS Sangam Vihar, Delhi whereby while granting bail to the petitioner, learned Sessions Judge has imposed a condition to deposit a sum of ₹ 30 lakhs in the form of FDR in the Court of learned CMM (South District). The disbursal of which shall be subject to the outcome of trial in FIR No.710/2015 PS Sangam Vihar.

2. It is submitted by learned counsel for the petitioner that petitioner has no means to deposit such a huge amount especially when as a builder substantial amount has been spent by him in raising the construction of flats at property bearing No.T-17, Ward No.8, in Khasra No.1151/3, Mehrauli, New Delhi under the collaboration agreement entered into with the land owner. He further submits that the petitioner never had any intention to cheat the complainant. Rather he initiated the process for registration though the registration has to be effected by the land owner in favour of purchaser.

The petitioner as a builder had to get the flats and shops under the collaboration agreement but the transfer of the title was to be done by the owner which he failed to do.

3. Vide impugned order the petitioner was ordered to be released on bail observing as under:-

“Without any observations on the merits or demerits of the case, taking the totality of the circumstances of the case brought forth and the stated alleged collaboration agreement between the applicant and the owner of the premises in question also and the notice and the reply thereto, and the submissions made on behalf of the State and the complainant, subject to the applicant depositing a sum of ₹ 30 lakhs in the form of FDR in the learned Court of CMM (South), the disbursal of which shall be subject to the outcome of trial in FIR No.710/15, PS Sangam Vihar, the applicant be allowed to be released on bail on filing a bail bond in the sum of ₹1,00,000/- with one surety of the like amount to the satisfaction of the learned Trial Court with directions that he shall not leave the country.”

4. Taking into consideration the entire facts, without examining the case on merits, direction to the petitioner to deposit ₹ 30 lakhs in the form of FDR is very harsh. In the given facts, this amount is reduced to ₹ 5 lakhs which shall be deposited in the form of FDR in the Court of learned CMM (South District) initially for a period of one year with auto renewal facility and the disbursal of the said amount shall be subject to the outcome of the trial in case FIR No.710/2015 PS Sangam Vihar.

5. Thus, the order dated 10th February, 2016 is modified to the above extent and the revision petition stands disposed of.

6. A copy of the order be given dasti under the signature of the Court Master.

PRATIBHA RANI, J.

FEBRUARY 24, 2016/‘pg’