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

+ **BAIL APPLN. 489/2016**

NATHU SINGH TYAGI

..... Petitioner

Represented by: **Mr. S.K. Jenamani with Mr.
S.K. Mishra, Advs.**

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: **Mr. Hirein Sharma, APP for
the State.
Mr. Dinesh Mathur, Sr. Adv.
with Mr. Subodh Pathak and
Ms. Nazoo Sharma, Advs. for
R-2.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

11.07.2016

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1. By this petition, petitioner seeks anticipatory bail in case FIR No.151/2015 under Sections 406/120B IPC registered at PS Economic Offences Wing, Delhi on the complainant of one Narender Barmecha.

2. Learned counsel for the petitioner contends that the petitioner is a bonafide purchaser of the three properties in question vide registered sale deeds and besides making payment in cash, payments by way of cheques were made. The petitioner was not aware of the mortgage created by the main accused Sachin Dutta, his mother Tripta Dutta and father R.K. Dutta, all partners of M/s Balaji Constructions. There is no material to show that the petitioner at any stage connived with the main accused and got the sale deeds executed in his name.

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3. Learned APP for the State on the other hand contends that the petitioner did not take the title documents of the properties at the time of execution of the registered sale deeds thus showing his connivance with the main accused. Further the properties were mortgaged to the complainant and all original documents were in possession of the complainant.

4. Learned counsel for the complainant submits that having been declared a proclaimed offender and there being a conspiracy between the present petitioner and the main accused, no anticipatory bail be granted.

5. In the complaint, Narender Barmecha alleges that he had joined a firm namely Balaji Constructions as a partner with Sachin Dutta, his mother Tripta Dutt and father R.K. Dutta who were also the partners of the said firm. He started making investment in M/s Balaji Constructions besides the other newly incorporated company M/s Build Serve Pvt. Ltd. On the inducement of Duttas, Narender Barmecha invested crores of rupees in the last four years and he finally realized that all the assurances made by the accused were false however, no projects as assured were launched by them. On feeling cheated, he expressed his desire to retire on 15th October, 2014 and sought rendition of accounts. Vide retirement deed dated 3rd November, 2014, he quit the said firm and his account was settled for an amount of ₹11.5 crores. To secure the interest of the complainant till payment were made, four properties belonging to the firm were mortgaged in favour of the complainant in terms of letter dated 5th November, 2014. However, the possession of these properties continued with Duttas. The original title deeds of all the four properties were handed to the complainant. After the retirement deed and handing over the original title deeds, the complainant

came to know that Duttas had fraudulently transferred the mortgaged properties to the petitioner and his son Pawan Tyagi vide sale deeds dated 11th March, 2015, 24th March, 2015 and 30th March, 2015. Hence the FIR.

6. During the course of investigation, it was revealed that Kh. Nos.1550M, 1550/1, 1551 and 1552 admeasuring 2305 sq.mtr. was sold vide sale deed dated 11th March, 2015 duly registered for a consideration of ₹8,75,90,000/- for which ₹5,92,14,100/- were paid in cash and ₹2,75,00,000/- were paid through cheque at the time of execution of sale deed. Similarly, vide sale deed dated 24th March, 2015 piece of land in Kh.No.1553 admeasuring 1931.4 sq.mtrs. which were originally two plots, was sold to Nathu Singh for a consideration of ₹6,76,00,000/- out of which ₹6,62,50,000/- were paid in cash on 9th July, 2014 at the time of agreement to sale and ₹6,50,000/- in cash at the time of sale deed and ₹7,00,000/- by way of cheque at the time of sale deed. The third piece of land was sold vide sale deed dated 30th March, 2015 in the name of Pawan Tyagi admeasuring 919.71 sq.mtr. for consideration of ₹3,49,50,000/- of which ₹2,85,00,000/- were paid in cash and ₹15,00,000/- were paid by cheque.

7. The main plank of arguments of the complainant was that while purchasing the three properties, no original title deeds were taken. On a query put to learned APP by this Court that whether the petitioner purchased the entire land or part thereof to ascertain that the petitioner could have taken the original title deeds, learned APP for the State fairly submits that the petitioner purchased various part of the entire land and not the entire khasra so that the original title deeds could be handed over to him. Though as per the status report, the petitioner did not join the investigation initially

however later he has joined the investigation. The petitioner has not been declared as proclaimed offender. Only proceedings under Sections 82 Cr.PC were instituted against the petitioner however he was not declared a proclaimed offender.

8. Considering the facts and circumstances of the case, I deem it fit to grant anticipatory bail to the petitioner. In the event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with two sureties of the like amount, subject to satisfaction of the Arresting Officer/SHO concerned.

9. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

JULY 11, 2016
‘v mittal’