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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and order: 11th March 2016

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BAIL APPLN. 550/2016 & CrI.M.A. No.4369/2016

NAR SINGH SHAH

..... Petitioner

Through: Mr.Ashwin Vaish, Mr.V.K.
Pandey, Advocates

versus

STATE

..... Respondent

Through: Mr.M.P. Singh, Additional Public
Prosecutor for the State
Mr.Sudhir Nandrajog, Senior
Advocate with Mr.Ajay Disant,
Advocate for the Complainant.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

11.03.2016

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P.S. TEJI, J. (Oral)

CrI.M.A. No.4369/2016 (Exemption)

Exemption allowed subject to just exceptions.

Application stands disposed of.

Bail Appln. No. 550/2016

1. By this petition filed under Section 438 of Cr.P.C. the petitioner seeks anticipatory bail in FIR No. 739/2014 under Section 406/420 of IPC at Police Station Jaitpur, Delhi.

2. Complainant – Narender Kumar Magu filed an application under Section 156(3) before the learned Metropolitan Magistrate for registration of FIR in respect of the fraud being committed upon him. The petitioner was working as an employee as a storekeeper in a factory of complainant's friend and he induced the complainant for purchasing an agricultural land belonging to Ranjha Singh, Mangat Singh and Sumender having Khasra No.248 min(1-1) and 255 min (0-19) situated at Village Jaitpur, Tehsil Kalkaji, New Delhi. The complainant alleged that the petitioner had taken 3 cheques of Rs.17 lacs each in the names of sellers/owners and ultimately got the sale deed executed in his favour.

3. Mr. Ashwin Vaish, counsel for the petitioner contended that the petitioner intended to purchase the aforesaid land for which he approached his friend Sudesh Sad for friendly loan in the sum of Rs.51 lacs. It was Sudesh who obtained three cheques of Rs.17 lacs each from the complainant and handed them over to him. The said Sudesh Sad neither told the complainant that he intends to forward the cheques to the petitioner nor he disclosed that the petitioner has taken loan from the complainant. Thereafter, the petitioner got the sale deed executed in his favour.

4. Counsel for the petitioner further contended that the complainant has also filed a case under Section 138 of Negotiable Instruments Act, 1881 against Sudesh Sad, which is pending adjudication. It is further submitted that the complainant had also filed a civil suit against Sudesh Sad. It is further contended that the original

sale deed in respect of the aforesaid land was stolen and the petitioner registered an FIR.

5. Counsel for the petitioner further contended that the Investigating Officer had issued notice to produce the documents and Sudesh Sad also received a notice to join the investigation and apprised the true facts to the Investigating Officer. Petitioner has also replied to the notice sent by Investigating Officer.

6. Learned counsel for the petitioner has further contended that the present case is of civil nature and is the subject matter of civil adjudication. Learned counsel for the petitioner has further contended that the sellers have also taken the stand that the petitioner is not involved in the present case. Therefore, the petitioner ought to have been granted bail in the present matter.

7. In support of his contentions, learned counsel for the petitioner has further relied on the judgment of ***Shri Gurbaksh Singh Sibbia and Others v. State of Punjab*, (1980) 2 SCC 565** and ***Arnesh Kumar v. State of Bihar and Another*, (2014) 8 SCC 273**, for grant of anticipatory bail.

8. Mr. M.P. Singh, learned Additional Public Prosecutor for the State opposed the contentions raised on behalf of the petitioner and submitted that the bail application has already been rejected by learned Additional Session Judge vide order dated 01.03.2016 while observing that despite the direction to produce the documents in respect of the land, the petitioner has not complied with the direction.

9. I have heard the submissions made on behalf of both the parties and also gone through the material placed on record.

10. After careful scrutiny of the matter, and perusal of the FIR this Court observes that there are specific allegations with regard to three cheques for a sum of Rs.17,00,000/- each in respect of purchase of agricultural land and the said agricultural land is registered in the name of the petitioner. The three cheques were used for purchasing the property from Shri Ranjha Singh, Shri Mangat Singh & Shri Sumender. The cheques were handed over to the seller of the property and ultimately, the property was got registered in his own name vide which the complainant suffered wrongful losses of Rs.51,00,000/- as the property was to be purchased for a sum of Rs.51,00,000/- in the name of the complainant.

11. This Court further observes that the sale deed was got registered by the petitioner from the person named above, without making any payment from his funds, which shows that the cheques were handed over by the petitioner to the seller.

12. In view of the aforesaid facts and circumstances, it is a fact apparent on the face of record that it is a case where the cheques were issued by the complainant and the property was purchased in the name of petitioner. So far as the judgments relied upon by counsel for the petitioner, I do not find applicability of judgments in the facts of the present case.

13. Resultantly, in the considered opinion of this court, the petitioner – Nar Singh Shah does not deserve the concession of grant of anticipatory bail. Accordingly, the present bail application is dismissed.

14. 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.

15. With aforesaid directions, the present petition stands disposed of.

MARCH 11, 2016
aa/pkb

(P.S.TEJI)
Judge