

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : August 23, 2016

+ BAIL APPLN. 583/2016
JITENDER BATRA @ LUCKY Petitioner
Through: Mr.B.S. Rana, Ms.Babita Ahlawat &
Mr.Satyam Sisodia, Advocates.

versus

THE STATE (NCT OF DELHI) Respondent
Through: Mr. Amit Chadha, Additional Public
Prosecutor for the State.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI
ORDER
P.S.TEJI, J.

1. The present application has been filed by the petitioners under Section 438 of the Code of Criminal Procedure, 1973 for the grant of anticipatory bail in FIR No.375/2015, under Sections 380/448/34/468/471/120B/411 of the Indian Penal Code, Police Station Uttam Nagar, New Delhi.

2. The case of the prosecution is that the complainants – Sh. A.G. Shekhar and Sh. Sukhvinder Singh Saini had purchased a property bearing No. F-2/13, Mohan Garden, Uttam Nagar, Delhi from one T.Kanak Raj. Dispute between the parties arose which was settled before this court and a settlement dated 05.12.2014 was arrived at between them. It is alleged that on 31.12.2014, when the complainants visited their property, they found the locks broken and one Praveen

Yadav and Dalip Yadav were sitting inside the house and when they tried to enter the property, five-six other persons including the petitioner and a ldy started abusing them and a complaint in this regard was lodged with the police. According to settlement, the possession was handed over to both the complainants. In his statement, Mr. S. William also stated that he neither signed any sale deed with the accused persons nor has he appeared before the Sub-Registrar in regard to execution of any sale deed with the accused persons. Even the documents showed in favour of Dalip Yadav, Rajender Chopra etc. did not bear any seal or stamp of notary public nor they bear any signature or initials.

3. Inquiry proceeded further and it revealed that Dalip Yadav was arrested and during PC remand, the documents which bears forged and fabricated stamps of notary public were recovered at the instance of accused Dalip Yadav. There were also some manipulations found i.e. use of white fluid. Partial stolen articles, like table and chairs were also recovered at the instance of accused Dalip Yadav.

4. The status report filed on behalf of the State reflects that the petitioner including other co-accused persons is absconding and NBWs in their names have been obtained from the Court of learned Metropolitan Magistrate. Custodial investigation of the petitioner herein is sought to recover forged and fabricated stamps of notary public used by the accused persons and for recovery of other stolen articles. The trial is at prosecution evidence stage and in the facts of

this case the apprehension of tampering with the prosecution evidence at the instance of petitioner is raised.

5. Learned counsel for the petitioner contended that all the documents and articles have already been recovered at the instance of Dalip Yadav therefore, no custodial interrogation is required to be conducted from the petitioner. It is further contended on behalf of the petitioner that the bail application in respect of the present petitioner has been dismissed by the learned Additional Sessions Judge mainly on the ground that the non bailable warrants have been issued against the petitioner. However, as per catena of decisions of this Court, the anticipatory bail cannot be denied even if the process under Section 82/83 of Cr.P.C. have been issued against the accused, unless prima facie case is made out against the accused. It is further contended on behalf of the petitioner that the main accused Dalip Yadav is already on bail, therefore, the petitioner is entitled to be granted bail on parity.

6. Learned Additional Public Prosecutor for the State, while opposing the contents of the learned counsel for the petitioner, stated that the trial is at the stage of prosecution evidence and for the purpose of recovery of forged and fabricated stamps of notary public used by the accused persons and recovery of other stolen articles, custodial interrogation of the petitioner is required.

7. I have heard learned counsel for the petitioner as well as the submissions made by learned Additional Public Prosecutor for the State and gone through the contents of the petition as well as material

placed on record.

8. This Court observes that when the present bail application came up for hearing before this Court on 28.04.2016, this Court had directed the petitioner to join the investigation on the same date at 4.00 PM and in the meanwhile, the petitioner was directed not to be arrested in this case. Thereafter, the State filed the status report and it was stated that the petitioner had joined the investigation and during interrogation, he has disclosed that the documents in questions were prepared by B.S. Documents at Mohan Garden, Uttam Nagar, Delhi including seal and stamp of notary public. Accordingly, a raid was conducted but seal and stamps of notary public – Ms. Mithlesh Agarwala were not found in the office.

9. After careful scrutiny of the case and the facts and circumstances of the present case, this Court observes that the case is pending adjudication and the petitioner has already joined the investigation and no report regarding the non-cooperation in the investigation is alleged on behalf of the State. Apart from this fact, this Court observes that the main accused Dalip Yadav and other co-accused Praveen Yadav have already been granted bail. Therefore, this Court is inclined to grant bail to the petitioner – Jitender Batra @ Lucky in the present case. Accordingly, the petitioner – Jitender Batra @ Lucky is directed to join the investigation as and when required, by notice in writing, and in the event of arrest, the petitioner – Jitender Batra @ Lucky be released on bail subject to his furnishing personal

bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the Arresting Officer.

10. The petitioners is further directed not to tamper with the evidence, not to influence the prosecution witnesses and shall not leave the country without prior permission of the Court concerned.

11. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

12. In view of the aforesaid directions, the present bail application is disposed of.

Dasti.

AUGUST 23, 2016
pkb

(P.S.TEJI)
JUDGE