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

+ **BAIL APPLN. 1585/2016**

GAUTAM SETH

..... Petitioner

Through: Mr. Ashish Bhagat, Abdes
Chaudhary and Akshat Gupta,
Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Rajat Katyal, APP with Insp.
Aditi Lilly, PS Dwarka (South)
Mr. Sermon Rawat, Adv for
complainant

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

08.08.2016

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Issue notice. Learned APP accepts notice. The complainant is present with her counsel. I have heard learned counsel for the parties.

This is an application filed u/s 438 Cr PC to seek anticipatory bail apprehending arrest in case FIR No.104/2014 registered at PS Dwarka (South) under Section 420/467/120B/199/200 IPC against the petitioner and one other accused.

The submission of learned counsel for the petitioner is that the petitioner has already joined the investigation. He submits that the premise on which the FIR has been registered is that the petitioner did not disclose while entering into the agreement with the complainant that he had already entered into an earlier agreement in respect of the same property and even received Rs.30 lacs from the earlier agreement purchaser. He submits that the amount received from the ultimate purchaser Wasim in respect of the sale consideration for the property in question, was initially a loan taken in 2008. He further submits that the money paid by the complainant of Rs.2 lacs towards earnest money was refunded to the son of the complainant and the agreement with the complainant cancelled. He has taken the court through the contents of the FIR to submit that, even according to the complainant, she did not have the money and her husband and son were arranging the same. He submits that the complainant does not dispute the cancellation deed entered into by the son of the complainant with the petitioner and the receipt of Rs.2 lacs towards refund of the earnest money. He submits that the sale in favour of Wasim is subsequent to the date of cancellation.

Mr. Katyal submits that the petitioner has joined the investigation and the aspect as to whether the amount of Rs.30 lacs paid to Wasim in 2008 was towards sale consideration or towards loan is being investigated.

Learned counsel for the complainant submits that the antecedents of the petitioner are not good since he is involved in three other cases including one under Section 420 IPC.

The petitioner has already joined the investigation. Mr. Bhagat submits that the petitioner shall continue to cooperate with the investigation.

Moreover, to show his bonafides the petitioner has offered to deposit in this court an amount of Rs.2 lacs. In these circumstances, I am inclined to allow the present petition.

Accordingly, it is directed that in case of his arrest, the applicant shall be released on bail upon furnishing personal bond with one surety in the sum of Rs.20,000/- to the satisfaction of the arresting officer, subject to the condition that he shall continue to join the investigation as and when called for, and shall deposit in this court an amount of Rs.2 lacs within two weeks. He shall also not in any manner try to get in touch with the complainant or other persons who may be witnesses in the matter, and shall not threaten them in any manner.

Petition stands disposed of. Dasti.

VIPIN SANGHI, J

AUGUST 08, 2016

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