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

DECIDED ON : 17th MARCH, 2016

+ **BAIL APPLN. No.1021/2015**

MANISH TAHIM Petitioner

Through Mr. Kunal Madan, Advocate

VERSUS

STATE & ANR. Respondents

Through Mr. Tarang Srivastava, APP.
SI Pritam Singh, Police Station
Connaught Place.
Mr. Shekhar Gupta, Advocate for
respondent No. 2.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.Garg, J. (Oral)

1. The petitioner-Manish Tahim seeks anticipatory bail under Section 438 Cr.P.C in case FIR No. 123/2015 under Section 419/420/468/471/120B IPC registered at Police Station Connaught Place. The bail application is contested by the State and the respondent No. 2/complainant.

2. I have heard the learned counsel for the parties including the learned

counsel for the complainant and have examined the file. Petitioner's counsel urged that the shop/stall bearing No. 2, NDMC Market, Connaught Place, Delhi was originally allotted to one late Om Prakash Tahim and Sh. Sadhu Ram by NDMC. Subsequently, Sadhu Ram transferred his share in the shop in favour of Om Prakash Tahim through a will. Later on, Om Prakash Tahim transferred the shop in favour of Satish Kumar who was running a tailoring shop in the name and style of Prominent Tailors with his real brother Ravinder Kumar Tahim. Ravinder Kumar Tahim expired on 17.02.1996 and the petitioner stepped into the shoes of his father and an informal partnership came into existence between him and Satish Kumar. Thereafter, Satish Kumar went to U.S. The shop was being managed by him since then. He further contended that in 2010, he and Satish Kumar entered into a formal partnership deed dated 31.12.2010 which was later on dissolved vide dissolution deed dated 23.05.2011. These deeds were signed by Satish Kumar at U.S. It is further contended that the NDMC had initiated proceedings against him for forgery, however, after being satisfied with the documents furnished by him, NDMC dropped the proceedings of forgery vide order dated 29.03.2011. The petitioner thereafter filed a writ petition before this Court where he was granted stay for the subject suit property.

The said matter is still pending. The instant FIR is an outcome of the dispute over family property. The petitioner and the complainant are first cousins. The dispute between the parties is primarily a civil dispute. Learned Additional Public Prosecutor and complainant's counsel have opposed the bail contending that the petitioner has forged various documents to get the shop transferred in his name.

3. The FIR in question was lodged on the directions of the Learned Metropolitan Magistrate under Section 156(3) Cr.P.C on 08.05.2015. The complainant Priyanka Sawhney alleged that her father Satish Kumar was allottee of the Stall No. 2, NDMC Market, Connaught Place which was sanctioned and regularized in his name in the year 1979. On 15.05.1986 divorce took place between her parents in HMA Case No. 77/1986. His father moved to USA and till death in 2012, he remained there. He never married thereafter. The petitioner is the complainant's cousin. In the NDMC, he applied for renewal of the license in his name and filed certain forged documents. The petitioner claimed that he was the only legal heir of Satish Kumar and falsely represented that Satish Kumar was unmarried.

4. Status report reveals that enquiries were made from NDMC and it transpired that the petitioner had applied for transfer of the stall in his name.

He had filed partnership deed, dissolution deed, affidavits and application in this regard before the NDMC purportedly contending Satish Kumar's signatures thereon. It has come on record that these documents were never signed by Satish Kumar as he never visited Delhi during the relevant period. Photocopy of these documents have been placed on record and the original are in the police file. These documents were attested by Notary Public. The petitioner relied upon the documents to get the shop in question transferred and regularised in his name. Specific enquiry was made from the learned counsel for the petitioner as to how signatures of the deceased Satish Kumar appeared on these documents when he had never visited India during the said dates and how the Notary Public had attested the same. The Investigating Officer has informed that in their statements recorded, the attesting witnesses have informed that when they put their signatures over these documents, these were already having the signatures of Satish Kumar thereon. Apparently, Satish Kumar did not sign these documents in their presence. The petitioner's counsel had no answer to it.

5. Considering the gravity of the offence and also to unearth, the conspiracy and the role of the Notary Public and the attesting witnesses, I am of the view that it is not a case where anticipatory bail should be granted

to the petitioner. The bail application is dismissed.

6. Observations in the order shall have no impact on the merits of the case.

(S.P.GARG)
JUDGE

MARCH 17, 2016

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