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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 2197/2015
SUBHASH SHARMA

..... Petitioner

Through: Mr Pawan Sharma and Mr Shiv Charan
Garg, Advs.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr Ashok Kumar Garg, Additonal Public
Prosecutor for the State
Mr A.K. Pandey, Adv. for complainant

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 22.01.2016

This is application under Section 438 of Cr.PC moved by the petitioner for grant of anticipatory bail in case FIR No. 673/2015 under Sections 420/467/468/471 IPC registered at Police Station Anand Parbat, Delhi.

The FIR in the instant case was registered on the basis of a complaint made by Smt Pushpa Sharma before learned Additional Chief Metropolitan Magistrate under Section 156(3) Code of Criminal Procedure alleging that the house bearing number 408/5, AF-4/1, Gali No.30, Nai Basti, Anand Parbat, Delhi was purchased by her husband during the year 1985 for a sum of Rs.20,000/-. The petitioner, who is her brother-in-law is trying to grab the said property on the basis for forged Will and GPA.

It is submitted by learned counsel for the petitioner that it is basically a civil dispute to which the complainant is trying to give a colour of a criminal case. The complainant also filed a civil suit which was dismissed vide order dated 06.02.2013 and an appeal preferred before this Court against the said order is pending disposal. Number of other civil disputes are pending pertaining to the joint properties of the family and in order to mount undue pressure upon the petitioner, the instant FIR has been lodged.

The application is vehemently opposed by learned Additional Public Prosecutor for the State by submitting that during the course of investigation, the witnesses of the alleged Will and GPA were examined who denied their signatures on the said documents.

Custodial interrogation of the petitioner is required to reveal the chain of persons involved in the offence and for recovery of forged documents prepared by the petitioner. It is further submitted that the petitioner was directed to join investigation and to provide the original Will and GPA but he has not produced the said documents by alleging that he has lost those documents but failed to provide any lost report of the documents.

As per the complaint made by the complainant, the petitioner is claiming title on the basis of a Will dated 02.12.1999 and GPA dated 10.02.1994 which are forged. As per the report of the Investigating Officer, the witnesses of the alleged Will and GPA denied their signatures on the same. Despite directions given by this Court to the petitioner, he has failed to produce the original documents. On the other hand, counsel for the petitioner relied upon an FIR showing that report was lodged regarding missing of the documents. However, a perusal of the same goes to show that the property description of the lost documents are – affidavit dated 23.01.2004, indemnity bond dated 23.01.2004 and GPA dated 23.01.2004 whereas the documents in question are Will dated 02.11.1999 and GPA dated 10.02.1994 for which no explanation has been given by the petitioner.

Under the circumstances, since the custodial interrogation of the petitioner will be required to ascertain as to who has signed as witness on the Will as well as GPA, from where the same were got prepared, the petitioner is not entitled for grant of anticipatory bail. The application is accordingly dismissed.

The interim order dated 13.10.2015 stands vacated.

The application stands disposed of accordingly.

SUNITA GUPTA, J

JANUARY 22, 2016/*rd*