

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of hearing and Order: February 02, 2017

+ BAIL APPLN. 205/2017
ROHIT SHOKEEN

..... Petitioner

Through: Mr. Pradeep Kumar Arya, Mr. Raj
Karan Sharma, Mr. N.S. Yadav,
Mr. Inderpreet Singh, Advocates

versus

STATE

..... Respondent

Through: Mr. M.S. Oberoi, Additional Public
Prosecutor for the State with Sub-
Inspector Rajesh Kumar, Police
Station Begampur, Delhi

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

P.S. TEJI, J. (Oral)

1. By this petition filed under Section 438 read with Section 482 of Cr. P.C., the petitioner is seeking anticipatory bail in a case registered vide FIR No.0799/2016 under Section 448/420/468/471 of IPC, at Police Station Begampur, Delhi.

2. The present case is registered on the complaint of one Ms. Usha Gupta, according to which, she had purchased a Plot 56-56A, Khasra No.38/16, Block R, Rama Vihar, Delhi measuring 308 sq. yds on 28.06.2007. She had taken the possession of the plot and also constructed the boundary and a room. She locked the room whose keys are with her. She used to visit the plot from time to time but in December 2014, when she visited her plot she found that the lock of

the room was broken and an old lady with her family was living in the room. On asking, she said that she was living here on someone's instructions. The incident was reported to the A.S.P. Sultanpuri, Delhi on 05.12.2014. Later on, during investigation it revealed that one Dhirender has forged the documents, on the basis of which he filed a case No.79/2015 against her and her husband, which was dismissed on 13.08.2015 by the court of Civil Judge, Rohini, Delhi.

3. Learned counsel for the petitioner contended that there is no role attributed to the petitioner in the FIR. He has not been named in the FIR. It is further contended that the incident of trespass had come to the knowledge of the complainant in December 2014, but the FIR has been lodged only on 08.10.2016 and the inordinate delay in lodging the FIR is unexplained. On behalf of the petitioner the chain of transaction regarding sale of the plot has been claimed as a result of which he is in lawful possession of the plot. Filing of two different civil suits in respect of the said plot has also been urged on behalf of the petitioner. However, the fact as to who is the lawful owner of the plot and whose possession over the plot is legal, is a matter of trial, which this court is not required to adjudicate while deciding the present bail petition.

4. On the contrary, Mr. M.S. Oberoi, learned Additional Public Prosecutor for the State contended that the petitioner is in possession of the property on the basis of forged documents, and he has not yet joined the investigation. More so, the legality and validity of the

document with regard to the possession of the disputed property is involved in the present case and the petitioner is required to be interrogated on these aspects. Therefore, custodial interrogation of the petitioner is sought for.

5. I have gone through the contentions raised by the petitioner in the present petition and also heard the submissions of learned Additional Public Prosecutor for the State and also gone through the contents of FIR.

6. After careful scrutiny of the facts and circumstances of the case, and the contents of the FIR in question, the only fact that is revealed to this court that the complainant had purchased the land in 2007 and in December 2014 she came to know that some other lady is in possession of the property and accordingly criminal complaint regarding trespass had been lodged in Police Station Begumpur on 08.10.2016. This court further observes that prior to registration of the FIR in question, there were two civil suits filed in civil court in respect of the disputed plot. It is not that the complainant has lodged the FIR immediately after coming to know that somebody else is in possession of her property. In fact, the FIR was lodged only after the civil suits were dismissed as withdrawn. More so, no steps were taken to arrest the petitioner after lodging of the FIR and the orders for warrants were taken only after rejection of the bail application by learned Additional Sessions Judge on 13.01.2017.

7. After Sub-Inspector Rajesh Kumar, Investigating Officer of the

case being inquired as to what is required to be recovered from the petitioner, and it was revealed that nothing is required to be recovered from the petitioner.

8. From the peculiar facts of the present case, this court observes that the complainant was in possession of the disputed plot before December 2014, when the same was trespassed and the right of title over the disputed land is involved in the present case, which is purely civil in nature and can be adjudicated before the civil court. So far as investigation of the present case is concerned, this court is not inclined to go into the genuinity of the title deed, especially at the stage of deciding the application of the petitioner seeking anticipatory bail in the case. More so, this court observes that the petitioner has not been named in the FIR.

9. In view of the aforesaid facts and circumstances of the present case, petitioner – Rohit Shokeen is directed to join the investigation as and when directed by the investigating officer and in the event of arrest, the petitioner – Rohit Shokeen be released on bail subject to his furnishing personal bond in the sum of Rs.15,000/- with one surety of the like amount to the satisfaction of the Arresting Officer.

10. The petitioner is directed not to tamper with the evidence, not to influence the prosecution witnesses and not to 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. With aforesaid directions, the present bail application is disposed of.

Dasti.

(P.S.TEJI)
JUDGE

FEBRUARY 02, 2017
pkb

