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

+ **BAIL APPLN. 2067/2014**

MAJ GEN UGRASEN YADAVA

..... Petitioner

Through: Mr. Amit Mahajan, Advocate with
Mr. Yash Wardhan Tiwari, Advocate

versus

STATE

..... Respondent

Through: Mr. Mukesh Kumar, APP with SI
Anil Kumar, DIU/South Distt.
Mr. Mukesh Gupta, Advocate for the
complainant.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
27.01.2017

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This is a regular bail application under Section 439 Cr.P.C. preferred by the petitioner/accused in respect of case FIR No. 115/2015 registered under Sections 468/120-B/471/420 and 34 IPC at police station Vasant Kunj North. This application was preferred sometime in September, 2014. The petitioner had already been in judicial custody since 03.09.2014. Vide order dated 07.11.2014, this Court granted interim bail to the petitioner. This relief was granted in view of an interim arrangement being worked out between the petitioner/accused and the complainant. Under the said interim

arrangement, the petitioner was obliged to return security of Rs. 60 lacs to the complainant in two instalments of Rs. 30 lacs each. There is no dispute that the said amount of Rs. 60 lacs stands returned by the petitioner to the complainant. It had also been agreed that in relation to improvements carried out in the property wherein the complainant was inducted as a tenant by the petitioner, a valuer shall be appointed who shall assess the said improvements and the amount as assessed shall be paid by the petitioner to the complainant in instalments within one year from the date of the report of the valuer. It was also agreed that in case both the parties do not arrive at a consensus regarding the name of the valuer, then an application shall be moved before an arbitral court for appointment of a valuer.

I may observe that the parties were already in arbitration when the order dated 07.11.2014 came to be passed.

In the light of the aforesaid interim arrangement, interim bail was granted to the petitioner without opposition by the complainant.

As noticed above, the complainant has received back Rs. 60 lacs towards the security deposit. It appears that the valuer was appointed who assessed the value of the improvements made by the complainant at Rs. 6.82 crores. It further appears that the petitioner did not accept the appointment of the valuer and the same was challenged by the petitioner. The earlier appointed Arbitrator recused upon an objection being raised by the complainant. Subsequently, another retired Chief Justice was appointed as the Arbitrator and the complainant, once again, moved an application for his recusal which was rejected. It appears that the appointment of the subsequent Arbitrator was assailed by the complainant before the Supreme Court and a Special Leave Petition is still pending. The petitioner/accused

also got an independent valuation report prepared of his own and the said valuation assessed the improvements at Rs. 1.62 crores. It appears that before the Supreme Court, the petitioner was required to pay to the complainant Rs. 1.62 crores since that was the amount assessed by the petitioner's valuer himself. Out of the said amount, Rs. 54 lacs was paid to the complainant. Vide order dated 26.08.2016, the petitioner was required to deposit Rs. 1.10 crores before the Registrar of the Supreme Court. Learned counsel for the petitioner states that even the said amount stands deposited. On 30.11.2016, it appears that the matter was again listed before the Supreme Court and the Supreme Court directed the complainant to re-deposit the amount of Rs. 54 lacs in the court and also observed that the Special Leave Petition shall be heard on merits in the last week of February, 2017. This order was passed since the settlement recorded before the Supreme Court on 09.10.2015 was recalled as the property involved was Gram Sabha land and did not belong to the petitioner/accused.

The submission of learned counsel for the petitioner is that much water has flown under the bridge since the interim bail was granted to the petitioner. He submits that the petitioner is a senior citizen and is suffering from several ailments. The charge-sheet has already been filed in the case on 21.01.2016. Moreover, the petitioner has not only paid Rs. 60 lacs towards refund of security to the complainant, the petitioner is also out of pocket of Rs. 1.64 crores, part of which was earlier paid to the complainant (which the complainant has now been directed to deposit in Supreme Court) and part thereof has been deposited by the petitioner in terms of the directions of the Supreme Court i.e. Rs. 1.10 crores. In these circumstances, learned counsel for the petitioner submits that the petitioner

is entitled to regular bail.

The application is opposed by the complainant who submits that the petitioner had misled the Court and the complainant, at the time of interim bail and the conditions for grant of interim bail have also been flouted by the petitioner. Learned counsel for the complainant submits that the valuation report has not been assailed by the petitioner in any proceedings.

Having heard learned counsels, I am of the view that the judicial custody of the petitioner is not necessary at this stage since the charge-sheet has already been filed. The reasons for the interim arrangement – worked out before this Court, and the settlement recorded before the Supreme Court failing, do not concern this Court. The fact remains that the petitioner has not only returned Rs. 60 lacs to the complainant but is also out of pocket Rs. 1.64 crores in terms of the orders passed by the Supreme Court.

Accordingly, the application is allowed. The petitioner is directed to be released on regular bail upon his furnishing personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the trial court subject to;

- i) he shall provide his mobile phone number to the trial court at the time of his release, which shall be kept in working condition at all times. The same shall not be changed without prior intimation to the trial court;
- ii) he shall not indulge in any criminal activity; and
- iii) he shall not contact the complainant or any other witness in the case and shall not try to influence any witness or tamper with evidence.

The passport of the petitioner shall continue to remain in deposit with the trial court.

It shall be open to the petitioner to move the trial court in relation to the removal of lien on the bank account of the petitioner.

Dasti.

VIPIN SANGHI, J

JANUARY 27, 2017

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