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

+ BAIL APPLN. 1513/2016

SANJAY KUMAR

..... Petitioner

Through: Mr. Anirudh Yadav, Advocate

versus

STATE

..... Respondent

Through: Mr. Amit Chadha, APP with SI Naveen
Sehrawat, PS Najafgarh

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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27.04.2017

Status report filed in terms of the directions in the previous order.

Heard. Perused.

The complainant Rajesh Kumar has alleged he having been subjected to offences punishable under Section 406, 420, 506, 34 IPC, *inter alia*, by the applicant herein, he having received from him as earnest money initially an amount of Rs.4 Lakh on 09.07.2008 followed by further payment in various instalments of Rs.24 Lakhs, all acknowledged by the applicant on a document styled as "*bayana raseed*". Though the said document has been executed on the letterhead of JMK Developers & Property Consultants, the language employed therein seems to give the impression that the applicant

while receiving the said amount of money had projected himself as the owner of the plot of land which was to be sold for consideration of Rs.24 Lakhs to the first informant. The land in question statedly was sold by some other document in favour of the third party. It is the position taken by the applicant that he was only an employee of JMK Developers & Property Consultants and had passed on the money thus received to Pawan Sharma, a partner of the firm in question.

It is pointed out that the investigation has brought that the applicant and the said Pawan Sharma are related to each other, they being cousins.

It also needs to be mentioned that both the applicant and the said Pawan Sharma are also involved in another similar case, it being FIR 325/2016 also involving offences punishable under Sections 420, 467, 468, 471, 506 IPC of police station Sonapat, Civil Lines wherein both of them were arrested and came to be released on bail, the *modus operandi* allegedly adopted for cheating in the said case being identical to the fact situation at hand.

The presence of Pawan Sharma could not be procured by the Investigating Officer inspite of production warrants being issued due to law and order problems. He was eventually released in the Haryana case on bail on 23.02.2017. His anticipatory bail application is stated to be presently pending in the Sessions court at Dwarka where interim protection against arrest has been granted till 29.04.2017.

It is stated by the investigating officer that on 23.04.2017

Pawan Sharma joined investigation and during interrogation he has revealed that the applicant was also a partner though with 5% share in the profits.

The applicant has not come up with any proof till date of he being merely an employee. He has not come up with any explanation as to how he utilized the money which he had received from the first informant - that is to say as to whether the money was actually deposited in the accounts of the firm or retained by him.

The reliance on the decision of the Supreme Court dated 03.06.2016 passed in *WP(Crl.) 30/2015*, titled *Dr. Rini Johar and Anr. Vs. State of M.P. and Ors.* in the facts of the case is misplaced.

In the facts and circumstances, it is clear that the applicant is not coming clean with all the facts. A case for anticipatory bail thus cannot be held to be made out. The interim protection stands withdrawn.

Dismissed.

R.K.GAUBA, J

APRIL 27, 2017

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