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

+ BAIL APPLN. 2640/2016

AWANEESH CHANDRA JHA

..... Petitioner

Through Mr.Murari Tiwari, Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

Through

Mr.Kewal Singh Ahuja, APP with SI
Suraj, PS Malviya Nagar.

Mr.Abhay Vohra and Ms.Amrita
Chatterjee, Advs. for the complainant.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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11.04.2017

Arguments heard.

The present application has been filed under Section 439 Cr.P.C. for the grant of bail in FIR No.359/2016, under Section 420 IPC, Police Station Malviya Nagar.

The FIR of the instant case was registered on the basis of complaint made by the complainant Deepak Tyagi. In his complaint, he has stated that he met the accused through his friends. Accused represented himself to be a reputed builder and told the complainant that he was making flats. Accused showed the complainant an under construction site i.e. property no.G-163, Aya Nagar Extension, Fatehpur Beri, New Delhi and assured him that the said property was free from all encumbrances. Accused claimed to be the owner of the

said property. The complainant booked a flat on the second floor of the building. On 11.07.2013, accused executed Agreement to Sell and Purchase in favour of the complainant and he paid Rs.20 lakhs to the accused. Accused issued receipts for the amounts received but subsequently neither he gave the possession nor returned the money.

Argument advanced by the counsel for the petitioner is that the petitioner was arrested on 28.06.2016 and is in judicial custody since then. It is submitted that the investigation is already complete and the accused is no more required for the purpose of custodial interrogation. There is no illegal act has been done by the accused and he can be held liable only for breach of contract.

As per the allegations levelled, the accused had assured the complainant to book a flat in the under construction site. The accused has entered into an agreement with the complainant and took money of Rs.20 lakhs from him for which he also issued receipts. It has come on record that during the course of investigation it was revealed that the accused had also entered into an Agreement to Sell and Purchase with one Santosh Kumari to sell the same flat for a total consideration of Rs.19.75 lakhs, out of which Rs.2 lakh was taken as advanced by the accused.

In view of the above mentioned facts and circumstances and the fact that the complainant has been cheated by the accused for selling a flat after receiving a sum of Rs.20 lakhs, this Court is not inclined to grant bail to the accused.

Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated

hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

The application is accordingly dismissed.

P.S.TEJI, J

APRIL 11, 2017

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