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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1681/2017

ASHUTOSH NARAIN SHARMA Petitioner

Through: Mr. Mahipal Singh, Advocate with
Mr.Vageesh Sharma, Advocate.

versus

STATE OF DELHI

..... Respondent

Through: Ms. Aashaa Tiwari, APP for the State
with SI Praveen Kumar, PS Ranhola, Delhi.

Mr. Binod Kumar Jha, Advocate for the
complainant.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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09.10.2017

1. Apprehending his arrest, the petitioner has moved to this Court under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in the case registered vide FIR No.421/2016 dated 03.06.2016 under Sections 420/471/468/34 IPC, Police Station Ranhola, District West Delhi (Now Outer District Delhi), on the complaint of Mr.Vinod Kumar Poddar.

2. As per the prosecution case, on 06.02.2015 the co-accused of the petitioner namely Vijay Kumar along with his co-accused Rajesh Yadav had agreed to sell a property bearing No. AB-21 measuring 80 square yards consisting of Khasra No.2/24, Gupta Enclave, Vikas Nagar, Hastsal Village, New Delhi to the complainant for a total sum of Rs.23,50,000/-. The complainant had paid advance/*biana* amount of Rs.50,000/- on 08.02.2015 to Vijay Kumar in the presence of co-accused Rajesh Yadav, Gopal Singh,

Kishan Singh and S.D. Nair. A receipt of earnest money was executed by Vijay Kumar on letter pad of Kishan Singh, a property dealer doing business under the name and style of M/s. Prabhat Properties and Developers. The remaining sale consideration of Rs.23,00,000/- was also paid by the complainant to Vijay Kumar on 20.02.2015. Sale documents in the form of GPA, agreement to sell, affidavit, receipt, possession letter, indemnity bond and Will were executed by co-accused Vijay Kumar in favour of the complainant which were notarised by Notary Public, Janakpuri, New Delhi. However, when the complainant along with his friend Gopal Singh visited the said property, he found that one Manoj Kumar was already in possession of the property in question.

3. Status report has already been filed.
4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He submits that the petitioner has not received any amount from the complainant Mr.Vinod Kumar Poddar. He submits that the petitioner is not named in the FIR. He has relied upon the judgment of the Hon'ble Apex Court in **Md. Ibrahim & Ors Vs. State of Bihar & Anr. in Criminal Appeal No.1695/2009 dated 04.09.2009.**
5. Per contra, learned APP submits that during investigation it is revealed that in fact, one Balbir Singh was the owner of the said property who sold it to one Jaipal Singh. On 15.10.2004, Jaipal Singh had sold the property in question to Smt. Vijay Kumari, who in turn sold it to Manoj Kumar by executing a registered General Power of Attorney. She submits that as on now Manoj Kumar is in possession of the property in question.
6. The learned APP submits that the petitioner in collusion with his co-accused Vijay Kumar, Rajesh Yadav and others have created forged,

fabricated and false documents in the name of a non-existing person Shiv Kumar. In the name of this non-existing person Shiv Kumar false and fabricated documents like GPA, Agreement to Sell, Affidavit, Receipt, Possession Letter, Indemnity Bond and Will were created on 02.08.2014 in favour of co-accused Vijay Kumar in respect of property in question. The petitioner is one of the conspirators and he had signed as a witness on these falsely created documents. The petitioner had also mentioned his address as K-168 Nihal Vihar, Delhi- 110041. It is submitted by learned APP that the custodial interrogation of the petitioner is required to unearth the conspiracy so as to find out the involvement of other persons. She also submits that NBWs have been issued against the petitioner and proceedings u/s 82 Cr.P.C. have already been initiated against him. She further submits that both the addresses of the petitioner i.e. one of his native place Pilkhuwa, District Ghaziabad, UP and another address of Nihal Vihar, Nangloi, Delhi- 110041, which he had given in his bail application were visited by IO to serve him with notice but he was not found available and he has been absconding.

7. In the facts and circumstances and keeping in view the gravity of the offence, seriousness of the crime allegedly committed by the petitioner and the fact that he has been absconding and not joining the investigation and his custodial investigation is required, I do not find any justifiable ground to grant anticipatory bail to the petitioner. As such the application is dismissed.

VINOD GOEL, J.

OCTOBER 09, 2017

"sandeep"