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

+ **BAIL APPLN. 1161/2018**

BALDEV SHARMA

..... Petitioner

Represented by: Mr.Kirti Uppal, Sr.Advocate with
Mr.Sidharth Chopra, Advocate

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Represented by: Ms.Meenakshi Chauhan, APP for the
State with SI Raghuveer, PS Bindapur
Mr.Ashish Aggarwal, Advocate for
the complainant

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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04.09.2018

1. By this petition, the petitioner seeks anticipatory bail in case FIR No.188/2018 under Section 420 IPC registered at PS Binda Pur on the complaint of Seema Gupta, wife of Rajeev Gupta.
2. The complainant in the FIR alleged that petitioner approached them through one property broker namely Ajay Sehgal with the desire to sell the property being Plot No.Z-26, out of Khasra No.89/6 situated in the area of Village Hastal ad-measuring 144.50 square yards in the colony known as Z-Block, Uttam Nagar. The petitioner clearly represented that he was the sole, absolute and exclusive owner of the said property. Thus complainant and her husband agreed to buy the abovesaid property for a consideration of ₹57,10,000/- through cash and cheque to be paid on various dates. Baldev

Sharma executed two sale deeds in favour of Smt.Seema Gupta and Rajeev Gupta on 12th August, 2013 however he did not provide the original documents and informed the complainant that the original documents had been misplaced. On 6th December, 2017, complainant was served with a notice by Canara Bank which was pasted on the said property noting that the bank was taking symbolic possession of the said property due to non repayment of the loan taken by M/s.Sharma Contracts India Pvt. Ltd. having its registered office at B-2/9, Second Floor, Vasant Vihar and in case within 60 days of affixing of notice loan was not re-paid, actual physical possession of the property would be taken over.

3. During the course of investigation, it was revealed that Baldev Sharma executed two sale deeds registered vide number 65510 and 16512 on 12th August, 2013 in favour of Seema Gupta and her husband Rajeev Gupta at the office of Sub-Registrar, Basai Darapur. On an investigation from Canara Bank, it was revealed that petitioner was enjoying the credit facilities since 2004 in the name of M/s.Sharma Contracts India Pvt. Ltd. on the strength of the property in question being mortgaged. Further the petitioner failed to deposit the loan amount so the bank took possession of the said property and served a further notice to the occupants to hand over possession within 15 days on 16th May, 2018.

4. Learned counsel for the petitioner vehemently contends that the original property documents of the property were with the bank was in the knowledge of the complainant and her husband hence no case for cheating is made out. It is further submitted that the complainant and her husband have participated in the proceeding before the DRT hence they cannot claim that the petitioner has cheated them. The claim of the complainants that only

photocopies were shown cannot be believed as no prudent person will enter into a sale deed and that too with an exorbitant price without seeing the original documents. To buttress its contention, learned counsel for the petitioner relies upon Clause 14 of the sale deed wherein it is noted that the photocopy or original documents in respect of the said property under sale have been handed over by the vendor to the vendee at the time of the execution of the sale deed.

5. In clause 14 of the Sale Deed the words used are photocopy or original relevant documents. Receipt of photocopies is not denied by the complainant. However, the fact that no original documents were given which later the complainant and her husband got to know that they were in possession of the bank further fortifies the case of the complainant that only photocopies were handed over. Though learned counsel for the petitioner relies upon the transcript of the telephonic conversation between the petitioner and the complainant's husband however even as per the petitioner, said transcript relates to 27th December, 2017 after the complainant and her husband had discovered the cheating done to them and thereafter complainant and her husband tried to mitigate the losses.

6. Considering the discussion aforesaid and in view of the specific allegations, this Court finds no ground to grant anticipatory bail to the petitioner.

7. Petition is dismissed.

MUKTA GUPTA, J.

SEPTEMBER 04, 2018

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