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

+ BAIL APPLN. 1565/2018 & CrI. M.A. No. 12223/2018

MOHD. AYUB ANSARI

..... Petitioner

Through

Mr. Sanjay Madane and Mr. Kapil
Sharma, Advs.

Versus

STATE OF NCT OF DELHI

..... Respondent

Through

Dr. M.P. Singh, APP with SI Sunil,
P.S. Subhash Place
Mr. Arvind Kumar Shukla, Mr. Kunal
Yadav and Mr. Ishtdeep Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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09.07.2018

Learned counsel for the petitioner submits that complainant has filed the FIR in the year 2018 in respect of a property transaction, which took place on 13th October, 2009. It is submitted that petitioner and his wife were the joint owners of property bearing no. D-539, Shakur Pur, Delhi. Complainant has alleged that petitioner had executed an agreement/bayana/earnest money receipt dated 13th October, 2009 and received ₹4,00,000/- towards the earnest money, out of the total sale consideration as fixed ₹17,00,000/- but subsequently declined to execute the

Sale Deed. As per the complainant himself, petitioner's wife had also signed the bayana receipt. Complainant filed a suit for specific performance before the trial court, which has been dismissed by the trial court on 26th July, 2017. Only thereafter, FIR was got registered.

Learned APP, who is assisted by the learned counsel for the complainant, has opposed the grant of anticipatory bail to the petitioner. It is contended that petitioner had concealed the fact that property was already mortgaged to a third person. Petitioner also did not inform complainant that property was jointly owned by him and his wife. Petitioner had induced the complainant to enter into an Agreement to Sell and had received earnest money by representing that he was the sole owner. Petitioner had no intention to execute the transfer documents right from the beginning.

Learned counsel for the petitioner submits that complainant had assured to pay balance sale consideration within ten days, but the same was not was tendered. Thus, earnest money stands forfeited. However, during the course of hearing, learned counsel for the petitioner, on instructions of petitioner, has offered to deposit ₹5,00,000/- with the Registrar General of this Court within two weeks, subject to outcome of the case.

Keeping in mind the totality of facts and circumstances of this case, it

is ordered that in case of arrest, petitioner be released on bail subject to his furnishing a personal bond in the sum of ₹20,000/- (Rupees Twenty Thousand Only) with one surety of the like amount to the satisfaction of the Investigating Officer/Arresting Officer/SHO concerned and depositing ₹5,00,000/- with the Registrar General of this Court within two weeks. However, in case ₹5,00,000/- is not deposited by the petitioner within two weeks, anticipatory bail granted by this order shall stand cancelled. Petitioner shall, however, cooperate in the investigation and appear before the Investigating Officer as and when he is called upon to do so.

Bail application is disposed of in the above terms. Miscellaneous application is disposed of as infructuous. Dasti.

A.K. PATHAK, J.

JULY 09, 2018
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