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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ BAIL APPLN. 2495/2018

DHIRAJ PRASAD

..... Petitioner

Through: Mr. Sunil K. Mittal, Mr. Kartickay Mathur, Mr. Sanket Gupta, Mr. Sushant Bali, Advs.

Versus

STATE

..... Respondent

Through: Mr. Rajat Katyal, APP for State with SI Ram Naresh, P.S. Amar Colony.
Mr.Tanveer Ahmed Mir, Adv. with Mr. Gurpreet Singh, Adv. for the complainant.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 05.12.2018

The petitioner seeks bail. He has been charged for offences punishable under sections 420/467/468/471/120-B/34 and 174A IPC. Additionally, he has also been declared a Proclaimed Offender. He had represented to the complainant that he was the owner of certain land, but in fact, he was not so; indeed, it was government land. He, nevertheless, entered into a contract with the complainant purporting to sell his right, title and interest in the said government land/property and the latter was induced to part with Rs.2.10 crore. A compromise was allegedly entered into between the complainant and the present petitioner, pursuant to which he was granted interim bail for five months, on his undertaking that he will pay Rs.1.10 crores to the complainant. His undertaking fell through. The learned Trial Court has recorded as under:

> *"5. The history of various bail applications and orders passed there on as mentioned in the police reply and the documents filed by the complainant needs to be noted. The FIR was registered on 20.03.2014 and on 09.07.2014, the applicant/accused Dhiraj Prasad got interim bail for five months on undertaking to pay Rs.1.10 crores to the complainant. The applicant/accused filed an application for extension of time for payment of aforesaid sum to the complainant which was dismissed by Ld. ASJ/Delhi vide order dt. 09.10.2014. Thereafter the accused moved Hon'ble High Court of Delhi by filing Crl. M.C. 4700/2014 seeking modification of order dt. 09.07.2014 passed by Ld. ASJ/Delhi. On 19.12.2014 the applicant/accused handed over two cheques for a total sum of Rs. 25 lakhs to the complainant before the Hon'ble High Court. The aforesaid two cheques were given by the applicant got bounced. Vide order dt. 27.01.2015, Hon'ble High court dismissed the Criminal Misc. main petition. Thereafter, the-applicant/accused absconded and did not surrender. NBWs were issued against him which could not be executed. Consequently accused/applicant was declared absconder by the Ld. Concerned court vide order dt. 11.09.2015. Accused/applicant was arrested on 17.10.2015 and his successive bail applications were dismissed by Ld. Metropolitan Magistrate and by Ld. Addl. Session Judge. The applicant/accused filed p application for bail before Hon'ble High Court which was dismissed as withdrawn on 19.07.2016. On 11.08.2016 the applicant/accused was granted bail by Ld. MM.*

The complainant approached Hon'ble High Court for cancellation of bail granted to the applicant. The applicant/accused undertook before Hon'ble High Court that he is ready to surrender to the court forthwith and accordingly the order dt. 11.08.2016 passed by Ld. MM was set aside.

6. Sh. Umakant Kataria, Ld. counsel for accused submitted that actual amount paid by the complainant to the accused was Rs. 1.10 Crores and he was ready to repay the amount but in the meantime got information from the police that a FIR has been registered against the accused/applicant wherein complainant is demanding Rs. 2.10 Crores. Mr. Umakant Kataria, Ld. Counsel for accused further submitted that there is no receipt of payment Of Rs. 76 lakhs in cash by the complainant to the accused. Mr. Kataria further referred to Clause 4 of the agreement to sell ;dt. 27,08.2013 entered into between the parties wherein it is mentioned that property is yet to be mutated and demarcated in favour of Ist party i.e. JMD. Ld. Counsel thus submitted that there is no mis-representation on behalf of applicant/accused."

Bail is opposed by the learned counsel for the State. He submits that the petitioner has misused the liberty granted by this Court. He has not redeemed his promise. Furthermore, although charges have been framed, evidence is yet to be recorded and the petitioner may well endeavour to influence the witnesses. The charges against the petitioner are grave in nature inasmuch as he tried to sell off government property as his own. The case has wider ramifications apropos maintenance of law and order.

The learned counsel for the petitioner relies upon the order dated 24.02.2016, whereby this Court had granted bail to the co-accused, who is similarly placed. According to him, the said order had taken into consideration the factum of the petitioner and the co-accused resiling from payment of Rs.1.10 crores. The Court would note that the petitioner had absconded after his application seeking extension of time for depositing the aforesaid amount was dismissed by this Court. He was subsequently declared a Proclaimed Offender (P.O.) and was then apprehended nine months later. The conduct of the petitioner shows that he has gone to evade the process of law. The Court, however, finds that much has transpired since then. The petitioner has since been declared a P.O., which was not so in the case of co-accused - Jitender Kumar. Furthermore, this Court vide order dated 07.09.2018 had cancelled the bail granted to the petitioner. Therefore, the circumstances of this case are distinguishable on both counts. Assuming for a moment that the petitioner was to repay only half of Rs.1.10 crore and both the accused having paid only Rs.10 lacs, there would still be an outstanding of Rs.50 lacs against the petitioner.

In view of the above, no case is made out for grant of bail. The petition is dismissed.

NAJMI WAZIRI, J

DECEMBER 05, 2018/acm