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

+ **BAIL APPLN. 2052/2017**

RAJAT SHARMA

..... Petitioner

Represented by: **Mr. Sudhir Nandrajog, Sr.
Advocate with Mr. Manu
Sharma, Advocate.**

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: **Mr. Hirein Sharma, APP with
SI Manjeet Spl. Staff/NWD.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

26.02.2018

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By this petition, the petitioner seeks bail application in case FIR No. 128/2017 under Sections 420/467/468/471/120B IPC registered at PS Rani Bagh, Delhi on the complaint of one Ashwani Mundhra.

The allegation of the complainant in the above noted FIR was that the petitioner and one Rahul Sharma, that is, the brother of the petitioner sold him a plot bearing private No. 9, 2nd floor, Parmanand Enclave, Plot No. A-3/104, Maharani Bagh, New Delhi admeasuring about 1900 Sq. ft. on the representation that the same was free from all encumbrances/loan.

It is the case of the complainant that the accused informed the complainant that original title deed had been deposited with M/s Cholamandlam Investment Ltd. and after paying a sum of ₹2,25,00,000/- to M/s Cholamandlam Investment Ltd. the title document would be returned

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back to them and the accused person told that they have no further liability against the flat. Thus the complainant agreed to purchase the property for ₹2,35,00,000/- out of which ₹2,25,00,000/- were directly paid to M/s Cholamandlam Investments Ltd., Chennai through RTGS and remaining amount of ₹10,00,000/- was handed over to the seller at the time of execution of the sale documents.

Complainant alleges that later he came to know that the property was already mortgaged with Indian Overseas Bank by one Suresh Chand Jain(original owner) since June 1995 who failed to repay the dues to the bank and thus the property was being claimed by the Bank for recovery of their loan amount.

During the course of investigation, the petitioner and his brother Rahul Sharma were arrested. Petitioner is in custody since 19th July, 2017.

Learned counsel for the petitioner has taken this Court through the documents filed by petitioner as well as the charge sheet. Though it is evident that the case of the complainant is that he was unaware of the loan of the Indian Overseas Bank but the fact remains that after the parties entered into a transaction in November, 2014 full payment was handed over by the complainant in December, 2014 when as per the agreement the possession was also handed over to the complainant. Despite full payment having been handed over on 13th February, 2015 the complainant entered only into an agreement to sell with the petitioner and not a sale deed. Non-execution of the sale deed at the said stage, only an agreement to sell having been executed and the consideration for the flat being less than the market value reveals that prima facie the complainant was aware of the loan on the

property as well. Further, the petitioner has been in custody since 19th July, 2017. Charge sheet has since been filed.

Considering that the investigation is complete and the trial is likely to take some time, this Court deems it fit to grant bail to the petitioner on furnishing a personal Bond in the sum of ₹50,000 with one surety bond of the like amount subject to the satisfaction of the learned Trial Court further subject to the condition that the petitioner will not leave the country without prior permission of the Court concerned and in case of change of residential address the same will be intimated to the Court concerned by way of affidavit.

Needless to note that any observation made by this Court hereinabove is not a final expression of opinion on merits of the case.

Petition is disposed of.

Order dasti.

MUKTA GUPTA, J.

FEBRUARY 26, 2018
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