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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 17.10.2019

\+ **BAIL APPLN. 2344/2019 & Crl. M. A. 36166/2019**

Rahul Narang ..... Petitioner

Through: Mr. G. S. Narula & Mr. M. Sarwar, Advocates.

versus

THE STATE OF DELHI ..... Respondent

Through: Mr G.M.Farooqui, APP for State alongwith SI Gulshan Yadav, EOW. Mr. S. K. Sharma and Mr. Prayas Aneja, Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J (ORAL)

1. Vide this order, I shall dispose of an anticipatory bail application filed on behalf of the petitioner Rahul Narang under section 438 Cr.P.C. in FIR No. 149/2019 u/s. 420/406/120-B IPC.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is innocent and has been falsely implicated in the present FIR. The petitioner is running a well reputed and prestigious gym namely “Olympia” in Greater Kailash-II, New Delhi for the last more than 20 years. He had initially

purchased the basement of the premises in question bearing no. S-569 Greater Kailash-II, New Delhi-110048 sometime in the year 1998. Later on the first and second floor of the above mentioned premises was also purchased. He was in occupation of ground floor of the said premises. For the last two years due to the ongoing sealing drive, the petitioner suffered business loss. The petitioner, therefore, decided to sell the respective floors of the premises to the complainant. In accordance with the agreement to sell, certain amounts were paid by the complainant to the petitioner. The sale transaction was to be completed on or before 30.11.2018. The complainant was delaying the payment and a legal notice was also issued to him in this regard. Instead of paying the balance amount of sale consideration, the complainant in order to harass the petitioner instituted civil suit against the petitioner in respect of the said premises for specific performance and also sought injunction restraining the petitioner form selling the said premises. It is a matter of record that wife of the petitioner on 09.08.2019 got the registration of the sale-deed done in respect of her portions i.e. first and second floor in the said premises in favour of the complainant. The complainant has made payment of the necessary loan amount to the financial institution like India Bulls (Rs. Two Crores) for second floor and from Reliance Capitals (Rs. Three Crores & ten Lacs) for second and first floor flats. The petitioner has been falsely implicated in this case. No useful purpose will be served by keeping him in custody as he has no role in the commission of offence. It is submitted that petitioner is ready to join the investigation as and when required and in these circumstances, it is prayed that petitioner be granted anticipatory bail and SHO/IO be directed to release the petitioner in the event of his arrest.

3. The application is opposed by the Ld. APP for the State on the ground that the allegations against the petitioner are serious in nature. He is involved in an offence of cheating involving huge amount and he in criminal conspiracy with other co-accuseds misrepresented the status that property is free from all encumbrances. Ld. APP has, therefore prayed for dismissal of the bail application.

4. I have considered the rival submissions. The FIR No. 149/19 dt 08.08.2019 u/s 420/406/120B IPC PS EOW, New Delhi was registered on the complaint of Sh. Harbhej Singh, Director M/s Harji Engineering Works Pvt Ltd. Who alleged that in August, 2018 Ms. Shefali Narang, Rahul Narag, Ms. Rachna Narang and Rajinder Narang approached him to sell their portions of property bearing No. S-569, Greater Kailash-II, New Delhi. They represented that property is free from encumbrances and there is no lien on the property. The complainant agreed to purchase the property for the total of sale consideration of Rs. 10 Crores and paid the amount of Rs. 2.08 Crores, through bank and cash to the alleged persons. He came to know that the said property was not free from encumbrances and financial institutions i.e. M/S Intec Capital Ltd., M/s Reliance Home Finance & India bulls Housing Finance have a lien over the property. Thus, he was cheated by the petitioner and other co-accuseds.

5. It is further the case of the prosecution that complainant Harbhej Singh has been examined and the original agreements executed between him and the alleged accused persons have been seized. The complainant Harbhej Singh has entered into three agreements to sell all dated 14.09.2018 for a total consideration of Rs. 10 Crores. The details of these agreements are as follows:

(i) Agreement to sell dated 14.09.18: An agreement was executed between Mrs. Shefali Narang w/o Rahul Narang and M/s Harji Engineering Works Pvt. Ltd. to purchase 1st floor (Rear portion), 2nd Floor (Entire floor) of property bearing no. S-569, Greater Kialash-2, New Delhi for a total sale consideration of Rs. 5 Crores.

(ii) Agreement to Sell Dated 14.09.18: An agreement was executed between Rajinder Narang, Rahul Narang & Mrs. Rachna Narang and M/s Harji Engineering Works Pvt. Ltd. to purchase basement (front portion) of property bearing No. S-569, Greater Kailash-2, New Delhi for a total consideration of Rs. 2 Crores.

(iii) Agreement to Sell dated 14.09.18: An agreement was executed between Rahul Narang and M/s Harji Engineering Works Pvt. Ltd. to purchase Ground Floor (Front portion) of property bearing No. S-569, Greater Kailash-2, New Delhi wherein there is a gym running for a total consideration of Rs. 3 Crores.

6. It is further the case of the Prosecution that during investigation, it was revealed that alleged Rahul Narang, Shefali Narang, Rajender Narang had taken various loans from M/s Intec Capital Ltd. Reliance Home Finance and Indiabulls housing finance by mortgaging their portions of property No. S-569, Basement Side,

Greater Kailash-2, New Delhi. Details of loans availed with them are as under:

i). M/s Intec capital Ltd. had sanctioned an amount of Rs. 2 Crores as a loan to the borrower The Fitness Club, co-applicants Rahul Narang. Shefali Narang, Rajender Narang, M/s Olympia Fitness Pvt. Ltd. vide loan sanction letter dt. 31.07.15. property bearing No. s-569, Basement side, Greater Kailash-2, New Delhi measuring 1000 sq. Yards was mortgaged as collateral security.

ii). M/s Reliance Home Finance had sanctioned one home loan and one top up totalling Rs. 2,88,60,000/- to borrowers Rahul; Narang. property bearing No. S-569, 2nd floor (front Side). Greater kailash-2, New Delhi, New Delhi was mortgaged.

iii). Indiabulls Housing Finance had sanctioned an amount of Rs. 1.92crores as a loan to borrower Rahul Narang and his wife Shefali Narang and co-applicant M/s Olympia fitness Pvt. Ltd. through its directors. Property bearing No. S-569, 2nd floor (Rear Portion in front block), Greater Kailash-2, New Delhi was mortgaged.

7. It is further the case of the prosecution that petitioner along with other co-accuseds by a pre-planned criminal conspiracy, misrepresented to the complainant the fact that the property is free from all encumbrances whereas they had availed multiple loans from NBFCs.

7. During investigations a notice u/s 41A CrPC was served upon the petitioner for joining investigation on 19.09.2019. On 23.09.2019, petitioner Rahul Narang joined the investigation. During examination, he informed that he executed Agreement to sell

dated 14.09.2018 with Harbhej Singh and he was well aware that property is already mortgaged with NBFCs. Out of total sale consideration, he received Rs. 1.28 crores from Harbhej Singh. Thereafter he alongwith his wife, father and mother entered into another agreement to sell dated 14.09.2018 with Harbhej Singh of M/s Harji Engineering Works. Agreement to sell dated 14.09.2018 was executed by his wife Shefali Narang with regard to 1st Floor Rear portion, 2nd Floor Front portion & 2nd Floor Rear portion. On 27.08.2009, she had executed 3 Sale Deeds of 1st floor Rear portion, 2nd floor Front portion & 2nd floor Rear portion in favour of M/s Harji Engineering Works Pvt. Ltd. and also got it registered at Sub-registrar- V (A), Hauz Khas, New Delhi. Agreement to sell dated 14.09.2018 was executed by him, his father and mother. This agreement to sell has already expired on 14.11.2018. Similarly agreement to sell dated 14.09.2018 was executed by him with regard to front Ground floor portion. He claimed that this agreement to sell has expired on 14.11.2018. Loans of M/s Reliance Capital & M/s Indiabulls Housing Finance has already been repaid and loan account has also been executed in favour of Ms. Harji Engineering Pvt. Ltd. by his wife Shefali Narang. Front basement portion was mortgaged with M/s Intec Capital and this loan is still outstasnding. He was asked to produce documents of front Ground portion. he stated that he had possession of Ground floor through rent agreements and sought time to provide documents. The documents in this regard are yet awaited.

8. The perusal of the record thus reveals that the petitioner is not

joining the investigation. He alongwith his family members entered into a criminal conspiracy and misrepresented the status of the property to the complainant by stating that it is free from any lien though it was mortgaged with several NBFCs. Since this is a case of criminal conspiracy in which the petitioner, his wife and father are involved and have cheated the complainant by making false statement, no grounds for anticipatory bail are made out. The anticipatory bail application along with pending application is, therefore, dismissed.

BRIJESH SETHI, J

OCTOBER 17, 2019
Amit