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

\+ **BAIL APPLN. 2686/2019**

Date of Decision: 18.12.2019

AMRIT MAAN ..... Petitioner

Through: Mr. J.M. Mudgil and Mr. N.S. Dalal, Advocates.

versus

STATE NCT OF DELHI ..... Respondent

Through: Mr. Amit Ahlawat, APP for the State with SI Pawan, PS EOW.
Mr. Vishal Khattar, Advocate with complainant in person.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J. (ORAL)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973 filed by the petitioner for grant of Anticipatory Bail in case FIR No. 177/2019 under Sections 408/419/420/467/ 468/471/120B IPC registered at Police Station Economic Offence Wing.

2. The present FIR was registered on the complaint of Authorised Representative of M/s Hinduja Leyland Finance Limited wherein he had alleged that the petitioner runs a sales agency under the name and style of "FUNDWIZZ" in connivance with one Nilanjan Majumdar, who is the Sales Manager of the complainant company. It is alleged that they have cheated

the complainant company by sourcing the bills and got disbursed loan of Rs.4.11 crores to M/s Sewwo Apparels, Rs.1.2 crores to M/s Touchwood Interiors, Rs.4.11 crores to M/s Stuff Talks, Rs.4.88 to M/s Omya & Company, Rs.4.11 crores to M/s RG Traders and Rs.4.87 crores to M/s Dheeraj Enterprises. It is further alleged that at the time of disbursement of loan to M/s Sewwo Apparels, Ms. Nirmal Sharma and Ms. Manisha Sharma were shown to be the co-borrowers of said firm, but subsequently said firm was converted to a company and petitioner's wife Mrs. Amibka Gautam became one of its Director and various amounts were transferred from the account of the said firm to the account of the petitioner. It is further alleged that all the five cases mentioned herein above were sourced by DSA "FUNDWIZZ" of the petitioner and he in connivance with Niranjan Majumdar, Sales Manager of the complainant company and Nitesh Kumar, is running a well organized Syndicate and by using forged and fabricated property documents they cheated the complainant company to the tune of crores of rupees.

3. Status report has been filed on behalf of the State.

4. As per the status report, the following loans cases are involved in the present case:-

S. No.	Name of borrower firm	Amount
1.	M/s Sewwo Apparels	4.11 Cr.
2.	M/s Stuff Talks	4.11 Cr.
3.	M/s Touchwood Interiors	1.02 Cr.
4.	M/s Omya & Company	4.88 Cr.
5.	M/s RG Traders	4.11 Cr.
6.	M/s Dheeraj Enterprises	4.87 Cr.
Grand Total		23.1 Cr.

5. During the investigation, the following facts were revealed with regard to the above mentioned loans:-

" ***Loan to M/s Sewwo Apparels (Amount – 4.11 Cr.)***

M/s Sewwo Apparels applied for loan against property of Rs.5 Cr. and loan amounting to Rs.4.11 Cr. was sanctioned on 31/08/2017, wherein M/s Sewwo Apparels is borrower and Mr. Gaurav Sharma, Mrs. Nirmal Sharma and Mrs. Manisha Sharma are co-borrowers. Loan was taken against the equitable mortgage of property no. 5/22 GF and basement, Roop Nagar, Delhi.

During the investigation it has been revealed that Mr. Gagan Makkar, is in possession of the property, who claimed himself as property owner and stated that he purchased the said property from Nirmal Sharma vide sale deed dated 23/08/18. He was also in possession of original sale deed dated 13.10.2017 executed by Mr. Ravidner Talwar and Mrs. Bhawna Talwar in favour of Mrs. Nirmal Sharma in respect of the said property and one same purportedly original sale deed was deposited by the borrowers/partners of M/s Sewwo Apparels with the complainant company at the time of sanction of loan. On comparison from the certified copy obtained from concerned sub-registrar office, sale deed deposited in the complainant company seems to be forged and fabricated.

Loan to M/s Stuff Talks (Amount - 4.11 Cr)

M/s Stuff Talks applied for loan against property of Rs.5 Cr. and loan amounting to Rs.4.11 Cr. was sanctioned on 28/09/2017, wherein M/s Stuff Talks is borrower and Mr. Yashpal Singla, Mrs. Jyoti Yadav are co-borrowers. Loan was taken against the registered mortgage of (1) property no. B-338, Block B, Gali no. 18, Bhajanpura, Shahdara, New Delhi-110053 and (2) property no. C-405, Block C, Gali no. 17, Bhajanpura, Shahdara, New Delhi-110053.

During the investigation it has been revealed that Mr. Girish Bansal and Mr. Devender Kumar (seller of the properties to borrower of loan availed from Hinduja Leyland Finance Limited) are in *possession of the property who stated that one Vikramjeet Sheriya introduced them with Mr. Amrit Maan (present petitioner) for the purpose of loan but Amrit Maan told them that he is unable to manage loan for them at present but he has buyer who can purchase their properties and he introduced them with Mr. Yashpal Singla by saying that he is ready to buy their property. Mr. Amrit Maan finalized all the deal on behalf of Yashpal Singla and prepared all documents related to sale deed of the properties and got registered the same in the office of sub-registrar IV. Amrit Maan and Yashpal Singhla provided them post dated cheques drawn on canara bank (Against consideration of sale of property) but just after execution of sale deed, they demanded back those cheques saying that there is problem in cheques and they will provide other cheques on next day. After continuously following up with them, they got other cheques drawn on central bank of India in July, 2018 with undertaking from Mr. Yashpal Singla (For non transfer of said property until clearance of these cheques). They presented those cheques in their accounts but the same were dishonoured due to insufficient funds. They have filed civil suits against Mr. Yashpal Singla vide CS: 161/19 and CS: 162/19 for permanent injunction and cancellation of the sale deeds. Further, they have also filed separate complaints in this regard in PS Bhajanpura and subsequently filed application u/s 156(3) Cr.PC and on both applications, concerned court vide order dated 09.10.2019 directed SHO PS Bhajanpura to register FIRs and taken up the investigation.*

<u>Loan to M/s Touchwood Interiors (Amount – 1.02 Cr)</u>

M/s Touchwood Interiors applied for loan against property of Rs. 1 Cr and loan amounting to Rs.1.02 Cr was sanctioned on 02.05.2017, wherein M/s Touchwood Interiors is borrower and Mr. Amit Bartaria, Mrs. Priya are co-borrowers. Loan was taken against the equitable mortgage of property no. M-280, Pratap Vihar, Ghaziabad-201001.

During the investigation it has been revealed that Ms. Deepika Sharma (Daughter in law of seller-Mrs. Rukmani Devi) is in possession of the property who, claimed that her Mother-in-law and

Father-in-law were owner of the property. One of the witness, on the sale deed dated 01.05.2017 executed by Mrs. Rukmani Gautam in favour of Mr. Amit Bartaria (borrower) in respect of the said property, namely, Sagir Ali joined investigation and stated that through one of their known Amit Bartaria approached them to purchase the said property and a sale deed duly registered as document no. 2482, in book no. 1, volume no. 6134, on pages 399-418 registered on 01.05.2017 was executed for sale of 50% undivided share of Rukmani Devi to Amit Bartaria and the consideration amount of Rs.77,05,000/- was decided to paid through post dated cheques 15.05.2017 and 20.05.2017 but all these three cheques were dishonoured on presentation. It is mentioned in the sale deed if the cheques will not honoured on the due dates, the sale deed will be automatically cancelled. When they came to know that Amit Bartaria has mortgaged the said property with Hinduja Leyland Finance Limited, Rekha Dutt (Daughter of Rukmani Devi) has got registered a case vide FIR no. 667 dated 02.07.2019 u/s 420/467/468/471/504/506/120B of IPC in PS Vijay Nagar District Ghaziabad, UP against Amit Bartaria.

Loan to M/s R.G. Traders (Amount – 4.11 Cr)

M/s R.G. Traders applied for loan against property of Rs.5 Cr and loan amounting to Rs.4.11 Cr was sanctioned on 28/11/2017, wherein M/s R.G. Traders is borrower and Mr. Sandeep Dang, Mrs. Gitika Dang, Mrs. Ambika Gautam and Mr. Rakesh Dang are co-borrowers. Loan was taken against the equitable mortgage of property no.B-18, Block-B, Ramprastha Colony, Ghaziabad, UP.

During investigation, on verification from concerned sub-registrar office the sale deed and rectification deed submitted by Amibka Gautam (wife of present petitioner) for taking loan were found forged as the same were not found registered on the number purportedly shown on the documents.

Loan to M/s Dheeraj Enterprises (Amount – 4.87 Cr)

M/s Dheeraj Enterprises applied for loan against property of

Rs.5 Cr and loan amounting to Rs.4.87 Cr was sanctioned on 26/06/2017, wherein M/s Dheeraj Enterprises is borrower and Mr. Dheeraj Sachdeva, Mr. Onkar Singh Chauhan, Ms. Koma Dang and Mr. Rakesh Dang are co-borrowers. Laon was taken against the equitable mortgage of property no. 17, Block-B, Ramprastha Surya Nagar, Ghaziabad, UP.

During the investigation it has been revealed that one of the co-borrower in the loan is O.S. Chauhan, in whose name the property is registered but actually he already expired on 29.07.2015 while the loan documents were executed on 06.07.17. Son of O.S. Chauham namely Suryansh Chauhan and Rajesh Chauhan stated that the photograph pasted on loan documents not belongs to their father and the person shown in the photograph has impersonated the identity of his father and also forged signature of his father.

<u>Loan to M/s Omya & Company (Amount- 4.88 Cr)</u>

M/s Sewwo Apparels applied for loan against property of Rs.5 Cr. and loan amounting to Rs.4.88 Cr was sanctioned on 31/07/2017, wherein M/s Omya & Company is borrower and Mr. Vikramjeet Sheriya, Mrs. Shallu Sheriya and Mr. Anil Grover are co-borrowers. Loan was taken against the equitable mortgage of property no. A-one place, 16/1, Bhajanpura, Delhi-110053 and borrower Vikramjeet Sheriya submitted original sale deed dated 07.08.2017 executed by Mrs. Sita Rani in favour of Mr. Vikramjeet Sheriya.

During the investigation it has been revealed that Mr. Vijay Bansal is in possession of the property, who claimed himself as tenant of property owner namely Sunil Tripathi, brother of Sunil Tripathi namely Atul Tripathi joined investigation as Sunil Tripathi has been expired on 01.04.19. Atul Tripathi told that this property belongs to them as his father purchased the said property on 07.09.1987. He further stated that they don't know any person in the name of Vikramjeet Sheriya and they never sold the property to anyone.

Investigation further revealed that Sita Rani W/o Ram Singh who purportedly executed sale deed in favour of Mr. Vikramjeet

Sheriya in respect of the said property, has been expired about 10 years back and some other lady impersonated Sita Rani for registration of the above sale deed."

6. It is urged by learned counsel for the petitioner that the petitioner is only a direct sales agent of the complainant company and his role is only to connect individual to loan providers and take necessary care of documentation for loan application forms and to submit them to the bank/financial institutions. It is further urged that he has been falsely implicated in the instant case as the complainant had provided the loan after due verification conducted by their staff at different levels.

7. On the other hand it is urged by learned APP for the State that the petitioner has got the loan disbursed on the basis of forged and fabricated documents and in connivance with the sales employees of the complainant company. It is further urged by learned APP for the State that five cases which were sourced by the DSA "FUNDWIZZ" involved the connivance of the officials of the complainant company as well as of forged and fabricated documents were used in procuring the loans. It is further urged that the petitioner is the king pin in the present case and his custodial interrogation is required for the purpose of recovering the cheated amount and to ascertain the role of the employees of the complainant company and to identify the persons who had impersonated one O.S. Chauhan and Sita Rani.

8. In the instant case the petitioner has been empanelled as direct sales agent of the complainant company and it was expected from him to source genuine proposals of the applicants who wanted loan, but in all the loans sourced through the petitioner borrowers did not have clear title of the mortgaged property. Either forged documents of the property were

deposited and in some cases the payments were made to the seller of the properties and because of which sellers have got registered the cases against the borrowers. Meaning thereby, the properties which were mortgaged did not have clear titles. As per the investigation even the wife of the petitioner obtained loan from the complainant bank on the basis of forged property documents. Investigation has also revealed that the petitioner is the authorised signatory in the bank account of M/s Omya and Company in which the loan amount has been credited. It is also revealed that Nirmal Sharma and Gaurav Sharma were shown as partners of M/s Sewwo Apparels at the time of sanction of the loan, but subsequently this firm was converted into a private limited company as M/s Sewwo Apparels Private Limited and the petitioner became one of the Directors in the company along with Nirmal Sharma and later on his wife Amibika Gupta also became its director. A lady by the name of Sita Rani has been impersonated who purportedly executed a sale deed in favour of one Vikramjeet Sheriya, but this lady Sita Rani had expired about 10 years back. Similarly, one O.S.Chauhan has also been impersonated with regard to some documents. So according to the prosecution, the petitioner needs to be interrogated on these points and his custody is also required for the purpose of seeking source of forged documents and recovery of the cheated amount.

9. In view of the aforesaid facts and circumstances, no grounds are made for grant of bail in the present petition. The petition is accordingly dismissed.

RAJNISH BHATNAGAR, J

DECEMBER 18, 2019

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