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

+ **BAIL APPLN. 2826/2019**

AJIT SINGH BAGGA

..... Petitioner

Through Mr Mohit Mathur, Senior Advocate
with Mr
versus

STATE

..... Respondent

Through: Ms Kusum Dhalla, APP for State.
ASI Rajender Kumar, P.S. Paschim Vihar West.
Mr Fanish K. Jain, Advocate with complainant.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.12.2019

CRL.M.A. 40037/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

BAIL APPLN. 2826/2019

3. The petitioner has filed the present petition, *inter alia*, seeking bail in connection with FIR No. 193/2017, under Sections 420/406/34 of the IPC, registered with Police Station Mianwali Nagar (Outer).
4. The allegation against the petitioner is that he had entered into an agreement to sell a property (Shop no. M-125, basement and ground situated at Guru Harkrishan Nagar, Paschim Vihar, New Delhi 110087) for a consideration of ₹7.75 crores and had collected a sum of ₹2 crores from the complainant on a representation that the said property was free from

encumbrance. The complainant had subsequently discovered that the property in question was mortgaged to Union Bank of India and therefore the petitioner was not in a position to transfer the title of the said property.

5. The petitioner has also not accounted for the amount of ₹2 crores collected from the complainant.

6. Mr Mohit Mathur, learned senior counsel appearing for the petitioner had contended that the amount due to the Union Bank of India was less than ₹5.75 crores, which was due and payable by the complainant as the balance consideration for the property in question. He had submitted that the petitioner had no objection if the said amount is paid directly to the bank. And, the petitioner would also execute all documents for transfer of the said property in favour of the complainant.

7. However, the said offer is not acceptable to the complainant. The learned counsel appearing for the complainant has drawn the attention of this Court to the orders dated 14.11.2017 and 21.12.2017 passed by this Court in Bail Application No. 1117/2017. A plain reading of the said orders indicates that the complainant had relinquished his rights to acquire the property in consideration on the petitioner agreeing to refund a sum of ₹2.31 crores, which was inclusive of interest @ 6% per annum. The manner in which the said payment was required to be made is also recorded in the order dated 21.12.2017. The complainant had also filed an affidavit accepting the aforesaid settlement.

8. In view of the above orders, there is merit in the contention advanced by the learned counsel for the complainant that the said settlement is final and binding between the parties and the petitioner cannot now insist that the complainant purchase the said property.

9. It is also seen that despite arriving at a settlement before this Court, the petitioner has failed and neglected to perform his obligations. *Prima facie*, the allegation that the complainant was induced into entering into the agreement to sell on the basis of certain representations made regarding the property in question, appears to be merited.

10. The factual matrix in which the case arises is not complex. The investigations are almost over and Ms Kusum Dhalla, learned APP appearing for the State states that the charge sheet would be filed shortly.

11. In the circumstances, this Court considers it apposite to allow the present petition as no purpose would be served in keeping the petitioner in custody at this stage.

12. The petitioner is directed to be released on bail on his furnishing a personal bond in the sum of ₹5 lakhs and two sureties of the equivalent amount to the satisfaction of the Trial Court. The petitioner shall also not leave this country. He shall report to the SHO P.S. Paschim Vihar West on every second and fourth Monday of the month at 10.30 a.m.

13. This is also subject to the condition that the petitioner shall appear in all proceedings initiated against him, including the contempt proceedings initiated by the complainant. The petitioner shall not sell, transfer, or in any manner, alienate any of his immovable properties without the prior approval of the Trial Court.

14. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

DECEMBER 10, 2019/ pkv