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

+ **BAIL APPLN. 158/2015 & CRL.M.A. 14019/2015**

MANJEET SINGH MAHAL

..... Petitioner

Through: Mr Ankush Narang, Ms Ritika
Godhwani and Ms Honey Uppal,
Advocates.

versus

STATE

..... Respondent

Through: Mr Tarang Srivastava, APP for State.
Mr S. C. Dhawan, Advocate for
complainant.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **30.10.2019**

1. The petitioner has filed the present application seeking anticipatory bail in connection with FIR No.0550/2014 under Sections 420/34 of the IPC registered with PS Dwarka South. The principal allegation against the petitioner is that he a party to availing loan from M/s Canfin Homes Limited, against security of a built up property bearing no.282, Block No.B, Sector-8 residential scheme Bagdolla, Dwarka, New Delhi. While the said property stood mortgaged to M/s Canfin Homes Limited, the same was dealt with and sold to other persons.

2. The said FIR was registered at the instance of Commander Osmond Titus and Smt. Viola Titus. They had stated that Mr Jagjeet Singh Mahal, brother of the petitioner, had represented himself as an absolute owner of the

property in question (four storied building built on a plot of land measuring 175 sq. mtrs. situated in Block-B, Sector-8, Residential Scheme Bagdolla, Dwarka, New Delhi). He had also produced a Sale Deed executed by Shri Satyal Pal Gupta in his favour. They alleged that Jagjeet Singh Mahal had represented that the said property was free from all encumbrances. The complainant had, relying upon the representations made by Mr Jagjeet Singh, purchased the third floor of the said property for a sale consideration of ₹54 lakhs and a Sale Deed dated 25.08.2012 was executed in favour of the complainants.

3. It was subsequently discovered that the said property was mortgaged to M/s Canfin Homes Limited, Noida against a loan of ₹1,55,42,623/-. The complainants also discovered that the said non-banking financial company had instituted proceedings for enforcement of their security interest.

4. The status report filed by the State indicates that other floors of the said property were also sold and 'Mahal Developers Pvt. Ltd.' (the company in which the petitioner, his wife and his brother are Directors), had collected the consideration for the same.

5. The present petition was filed back in 2015 and had been deferred on several occasion at the instance of the petitioner. An interim order was passed in favour of the petitioner on 27.01.2015 and it was directed that he be enlarged on bail on his furnishing a Personal Bond in the sum of ₹5 lakhs with one surety of the equivalent amount to the satisfaction of the Arresting Officer/Station House In-charge. The present petition has not progressed, thereafter, for several reasons including on account of repeated adjournments sought by the petitioner. It is also represented before this Court that the petitioner was endeavouring to settle the disputes by paying

the dues of the concerned NBFC (M/s Canfin Homes Limited). A sum of ₹101 lakhs has been paid to the said NBFC, out of which the petitioner has paid a sum of ₹81 lakhs. The balance amount of ₹20 lakhs has been paid by the complainants in order to safeguard the property from being auctioned.

6. Although repeated adjournments had been sought to resolve the matter, the same remains unresolved. For over a year, the petitioner has been seeking adjournments on the ground that the petitioner is in the process of paying the amount due to the NBFC. However, no progress has been made (since 28.09.2018).

7. While the proceedings are pending, the IO has also not collected the details as to how the funds received from various purchasers as sale consideration for the property in question, has been utilised.

8. In view of the above, this Court does not consider it apposite to accede to the prayers made in the present petition. The Investigating Officer is required to collect all information with regard to the receipt of sale consideration from the complainant and all other similarly placed buyers. The IO is also required to ascertain the purposes for which and the manner in which the funds so collected have been utilised.

9. The petition is disposed of with the aforesaid observations. The pending application is also disposed of.

VIBHU BAKHRU, J

OCTOBER 30, 2019
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