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

% **Date of Decision: 26.11.2019**

+ **BAIL APPLN. 1283/2019**

Hazi Nasim Ahmad

..... Petitioner

Through: Mr. Ranjan Lal, Mr.
Bhartendu Kumar Suman,
Mr. Akshay Nagar & Mr.
Krishan Kumar, Advocates.

versus

THE STATE OF DELHI

..... Respondent

Through: Ms Neelam Sharma,
APP for State with ASI
D.K.Tyagi DIU/NE.
Mr. Arvind Kumar Bhardwaj,
Complainant in person.

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 Hazi Nasim Ahmad under section 438 Cr.P.C. in FIR No. 70/2019 u/s. 420/120B IPC, PS Sonia Vihar.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail

on the ground that petitioner is innocent and has been falsely implicated. He is a senior citizen, aged about 63 years and is suffering from various diseases.

3. It is submitted that complainant Arvind Kumar Bhardwaj is the appellant in Regular Civil Appeal no. 01/2014 titled as “Arvind Kumar Bhardwaj vs. Bhim Singh @ Ors” pending in the court of Ld. ADJ, Karkardooma Court, Delhi. On 23.04.2019 at about 01.00 P.M., the petitioner has received one notice under Section 91/160 Cr.P.C. dated 22.04.2019 issued by ASI Devender Kumar Tyagi, Delhi Investigation Unit, North-East in FIR No. 70/2019 dated 03.04.2019 under Section 420/120B IPC, PS Sonia Vihar, North-East, Delhi. It is submitted that complainant has connived with IO ASI Devender Kumar Tyagi and co-accused Dilip Chand Sharma against the petitioner and got a false FIR registered.

4. It is submitted that complainant had filed a civil suit bearing no. 78/2010 which was dismissed by the Ld. Civil Judge vide order dated 25.01.2014. Against the said order of Ld. Civil Judge, the complainant had filed a regular Civil Appeal no. 01/2014 and since the complainant knew very well that his aforesaid appeal has no

merits, he therefore, filed the present FIR.

5. It is submitted that there is an apprehension that police may arrest the petitioner in present FIR bearing no. 70/2019. The petitioner is ready to join the investigation as and when required and in these circumstances, it is prayed that petitioner be released on anticipatory bail/interim protection to join the investigation and SHO/IO be directed to release the petitioner in the event of his arrest.

6. Ld. Counsel for the petitioner, in support of its submissions, has relied upon the following case law:-

1)State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors., 1992 AIR 604;

2)Renuka Gupta & Anr. vs. State of Chhattisgarh & Ors., 2013, SCC Online Chh 257.

7. The anticipatory bail application is opposed by the Ld. APP for the State on the ground that the allegations against the petitioner are serious in nature. Petitioner is not joining the investigation and has been declared **Proclaimed offender** by the court of ld. ACMM/NE-Karkardooma Courts. There are clear allegations of cheating against him. The investigation is at initial stage. He has, therefore prayed for dismissal of the anticipatory bail application.

8. I have considered the rival submissions. The case law cited by the Ld. Counsel for the petitioner is distinguishable as both the cases cited are on quashing of criminal proceedings whereas the present case is for grant of anticipatory bail to the petitioner.

9. It is the case of the prosecution that complainant Sh. Arvind Kumar Bhardwaj, was introduced by one property dealer namely Sh. Sarvesh Kumar to Sh. Dalip Chand Sharma (brother-in-law, *Sala* of Sarvesh Kumar) and his wife Smt Sudha Sharma. In January, 2004, Sh. Sarvesh Kumar showed the property measuring 250 Sq. Yards situated at plot no. 31, Anuvrat Vihar, Sabhapur Extension, Delhi-110094. On 11.02.2014, complainant and his father saw the original documents of the above property in presence of Sh. Dalip Chand Sharma and Smt Sudha Sharma and paid Rs. 4,00,000/- in cash to Dalip Chand Sharma and Rs. 30,000/- in cash to Sarvesh Kumar as commission. Thereafter, all of them went to the office of Registrar, Seelampur where complainant met the petitioner, Hazi Nasim Ahmed. Sh. Dalip Chand Sharma told complainant that he had executed GPA of property in question in favour of Hazi Nasim Ahmed and thereafter Hazi Nasim Ahmed got registered the GPA of

property in question in favour of Dalip Chand Sharma, who in turn got registered the GPA of 125 Sq.Yards of property in question in favour of Smt Sudha Sharma. Thereafter, Sh. Dalip Chand Sharma and Smt Sudha Sharma, both registered the GPA of property in question in favour of the complainant and handed over the original documents and possession of the property. On 16.06.2017 and 15.07.2017, Premi Gujjar, Bunt Gujjar, Ran Singh Gujjar and Prakash Gujjar tried to encroach upon property in question. In fact, the petitioner along with Dalip Chand Sharma, Sudha Sharma and Sarvesh Kumar has sold this property to two parties i.e. Sh. Mool Chand Sharma(125 Sq.yards) and Durbal Prasad and Ors.(125 Sq.Yards) in the year 2002 and has again sold the same to the petitioner on 11.02.2004. The investigation is at preliminary stage. The allegations levelled are serious in nature. Notices under Section 91 and 160 Cr.P.C. have been issued and served upon the petitioner but despite that, he has not joined the investigation. The petitioner is also stated to be previously involved in the following cases :-

Sl.no.	FIR no.	Under Section	PS
1	184/2001	189 IPC	Sakkarpur, Delhi
2	825/2004	467/468/471/411	Sakkarpur, Delhi

		IPC	
3	556/2008	379/34 IPC	Vasant Kunj North, Delhi
4	439/2013	406/420/328 IPC	Kotwali Kanouj, U.P.
5	119/2014	482/411/34 IPC	Bara Hindu Rao, Delhi
6	268/2014	379 IPC	Shalimar Bagh, Delhi
7	751/2014	189 IPC	Shalimar Bagh, Delhi.
8	70/19	420/120B IPC	Sonia Vihar, Delhi.

10. Thus, the allegations levelled against the petitioner are serious in nature. He has committed cheating by selling the property in question to the complainant despite the fact that the same was sold by him to two other parties in the year 2002. The petitioner has been declared **proclaimed offender** by the court of ACMM-NE, Karkardooma Courts vide order dated 29.08.2019. In view of the above facts and also keeping in view the previous involvement of petitioner in number of criminal cases and further keeping in mind the fact that custodial interrogation of the petitioner is required by the investigating officer, no grounds for anticipatory bail are made out. The anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

NOVEMBER 26, 2019/Ak