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\$~1 & 2 (common order)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **BAIL APPLN. 1489/2019**

SANT LAL GUPTA @ SANT LAL GOYAL Petitioner

Through: Mr. Apurb Lal, Advocate with
Ms. Meenu Pandey, Adv.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP for the
State with SI Kiranpal, PS Jagatpuri.+ **BAIL APPLN. 1490/2019**

INDIRA GOEL

..... Petitioner

Through: Mr. Apurb Lal, Advocate with
Ms. Meenu Pandey, Adv.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP for the
State with SI Kiranpal, PS Jagatpuri.**CORAM:****HON'BLE MR. JUSTICE R.K.GAUBA****ORDER**

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05.07.2019

The petitioners are facing criminal proceedings on the accusations for offences punishable under sections 420/406/34 of Indian Penal Code, 1860 (IPC) in the context of FIR No.536/2015 of Police Station Jagat Puri, registered on the complaint of Vijay Gupta, the gravamen relating to an agreement to sell that had been executed by the petitioner in the second captioned matter, the other petitioner (of the first captioned matter) being her husband and an attesting witness. The agreement to sell dated 02.08.2011 was concededly executed by the said petitioner jointly with her

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close relative Krishna Goyal wife of Ram Niwas Gupta, he being the brother of the petitioner Sant Lal Gupta. As per the sale agreement the property No.58, admeasuring 109.93 sq. mts., equivalent to 131.5 sq. yds., forming part of the plot of land in the *abadi* area of village khureji Khas, Shahdara Delhi was offered to be sold for a total consideration of Rs.75 lacs. The aforesaid petitioner and the other person executing the said document, her husband Ram Niwas Gupta also being a signatory as an attesting witness, who had concededly received a total earnest amount of Rs.22.50 lacs, in instalments.

The complainant's case is that the property which was offered to be sold was subject matter of a family dispute and further that he was cheated because the aforementioned property and the other executant of the agreement to sell were not owners of the entire property, their share being only to the extent of 44 sq. yds.

The petitioners, and the said two others, had earlier approached this court for release on anticipatory bail by moving bail application No.2265/2016 which was decided by a learned Single Judge of this court by order dated 17.01.2018. A perusal of the said order reveals that on 10.03.2017 the petitioners, and the two others, voluntarily offered to pay to the complainant amount of Rs.30 lacs which included the amount received on account of earnest money, for amicable full and final settlement. The undertakings to such effect were recorded by the court and interim protection granted. While the two others paid Rs.15 lacs in compliance with the undertaking, the petitioners failed to do so. They were granted repeated adjournments and deferments, the time for compliance with the undertaking

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having been extended but no steps in that regard having been taken. The learned Single Judge found this to be unacceptable. By order dated 17.01.2018 the other two persons co-accused Krishna Goel and Ram Niwas Gupta were admitted to anticipatory bail while the anticipatory bail applications of the petitioners were dismissed. It is against this backdrop that the petitioners are stated to have been arrested in the course of investigation and taken in custody on 25.02.2019.

The petitioners had approached the additional sessions Judge by bail application Nos.1336/2019 and 1352/2019. The said applications were, however, dismissed by the said court whereafter they have approached this court by way of present applications.

Status reports have been submitted which are taken on record.

The learned counsel for the petitioners argued that bail is a matter of right and that it is not fair to decline release to the petitioners. He referred to *Sanjay Chandra vs. CBI, 2012 (1) SCC 40*, to argue that the protection of personal liberty of the accused has to take precedence, denial of bail carrying a substantial punitive content. There is no doubt that while these principles have to be borne in mind, the conduct of the person who is accused of crime has also to be kept into consideration. The petitioners had taken the court for a ride by securing interim protection by submitting undertaking on 10.03.2017 which was never intended to be complied with. Their conduct in this regard has been brought out vividly in the order dated 17.01.2018 whereby their bail application No.2265/2016 was dismissed by a learned Single Judge of this court earlier.

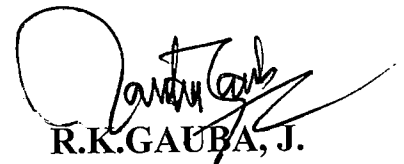
On being asked, the counsel for the petitioners has failed to come up

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with any clear reason or explanation as to why a false representation was made vis-a-vis the title of the petitioners in the subject property. On the contrary, he referred to a compromise decree passed by the civil court on 19.10.2013 which only reinforces the case against them to the effect that they were not owners of the entire property, their share being limited and restricted, this rendering the representation to the contrary to the complainant in the agreement to sell *prima facie* dishonest.

Having regard to the over all facts and circumstances of the case, and the past conduct, this court is not inclined to release the petitioners on bail.

Both the petitions are dismissed.


R.K.GAUBA, J.

JULY 05, 2019

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