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

% **Date of Decision: 17.10.2019**

\+ **BAIL APPLN. 2623/2019 & Crl. M. A. 38433/2019**

Deepak Nanda @ Vicky Nanda ..... Petitioner

Through: Mr.Alok, Ms. Aanchal Budhiraja and Deepanshu Gupta, Advocates

versus

THE STATE OF DELHI ..... Respondent

Through: Mr G.M.Farooqui, APP for State alongwith Insp. Ravi Kant, PS Mahendra Park. Mr. Vivek Aggarwal, Adv. for complainant.

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 Deepak Nanda @ Vicky Nanda under section 438 Cr.P.C. r/w. section 482 CrPC in FIR No. 0357/19 u/s. 406/420/120-B IPC.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is innocent and has been falsely

implicated in the present FIR. The petitioner is doing the business of fruits at New Subzi Mandi, Azadpur, Delhi. One Mohan Lal, who was the original allottee of the shop bearing no. B-972, New Subzi Mandi, Azadpur, Delhi, had executed a Conveyance Deed dated 05.10.2011, in favour of one Leela Kishan and Krishan Lal. On the basis of said Conveyance Deed Leela Kishan and Krishan Lal became the co-owners and co-sharer in respect of the said shop. It is submitted that Krishan Lal had transferred his half share in respect of the said shop in favour of the petitioner. In this regard Krishan Lal had also executed a registered Sale-deed dated 02.05.2019 in favour of the petitioner. It is further submitted that the said Leela Krishan was having friendly relations with the petitioner and he had taken a friendly loan of Rs. 25,00,000/- (Rs. Twenty-five lacs) from the petitioner for his legal necessities. The said Leela Krishan has executed an agreement dated 28.05.2019 in which he has admitted the fact of having received Rs. 25,00,000/- from the petitioner. Leela Krishan has also acknowledged the fact that he is having half share in respect of the said shop. He has further acknowledged the fact that he has handed over the physical and vacant possession of half share in respect of the said share to the petitioner. It is also admitted by Sh. Leela Krishan that in case he is unable to refund the amount of Rs.25,00,000/- to the petitioner within a period of three months i.e. upto 27.08.2019, then he (Leela Krishan) after accepting a further sum of Rs. 16,00,000/- from the petitioner, shall execute a sale-deed in his favour. It is further submitted that Leela Krishan at the time of execution of agreement dated 28.05.2019 had also handed over three filled up cheques without date to the petitioner.

3. Ld. Counsel for the petitioner has submitted that complainant Virender Tuteja and Ashish @ Ashu are the property dealers of New Subzi Mandi, Azadpur, Delhi. They have connections with police officials and politicians and deals in the transactions in respect of the disputed properties. The complainant and one Ashish @ Ashu came to know that Krishan Lal and Leela Kishan have some financial dispute and differences relating to the business and regarding the said shop. Complainant and Ashish @ Ashu in collusion with each other and with the help of one Tilu Tajpur and his Gang are giving threats to the petitioner. Lot of pressure was put on the petitioner to vacate the shop with the help of some wrestlers.

Since Leela Krishan has failed to repay the amount of Rs. 25,00,000/-, the petitioner is ready and willing to pay balance amount of Rs. 16,00,000/- to Sh. Leela Krishan. However, Leela Krishan has not turned up to accept Rs. 16,00,000/- from the petitioner and to execute the sale-deed. On 04.09.2019, the petitioner has instituted a civil suit for specific performance of agreement dated 28.05.2019 & 28.08.2019 and Permanent Injunction against Leela Krishan, complainant Virender Tuteja and Ashish @ Ashu before Ld. District Judge, North District, Rohini Courts. The Ld. ADJ, Sh. Shivaji Anand, North District, Rohini has issued notice to all the respondents for 11.12.2019 and granted ex-parte ad-interim injunction and also directed the parties to maintain status quo order in respect of the suit property i.e. undivided half share in respect of the shop bearing no. B-972, New Subzi Mandi, Azadpur, Delhi.

5. It is further submitted by Ld. Counsel for the petitioner that on 05.09.2019, 15-20 unknown persons had entered into the shop of the petitioner illegally and made attempt to unlawfully occupy the said shop. Though the complaint was made to the police but no

action has been taken in this regard. It is submitted that the petitioner is ready to join the investigation as and when required and in these circumstances, it is prayed that petitioner be granted anticipatory bail/ interim protection to join the investigation and SHO/IO be directed to release the petitioner in the event of his arrest.

6. Learned Counsel for the petitioner has also relied upon following case law in support of his contentions:-

i) Ravindra Saxena v. State of Rajasthan, (2010) 1 SCC 684;
ii) Samarat Singh Nirula & Ors. v. State of NCT of Delhi, 2015 (220) DLT 583;
iii) Jagdish Nautiyal v. State, Bail Appl. No. 1317/2012

7. I have gone through the above case law. There is no disagreement with the proposition of law laid down therein. However, the above judgments are distinguishable on the basis of facts and circumstances stated therein.

8. The anticipatory bail application is opposed by the Ld. APP for the State on the ground that the allegations against the applicant/ accused are serious in nature. Petitioner is not joining the investigation. NBWs have been issued against him. There are clear

allegations of cheating against him. The investigation is still in progress and at initial stage. The petitioner is not cooperating with the investigating officer. He has, therefore prayed for dismissal of the bail application.

8. I have considered the rival submissions. Perusal of the FIR reveals that the same was registered by complainant Sh. Virender Tuteja. He has stated that in March, 2019 petitioner Deepak Nanda @ Vicky Nanda has approached him with malafide intention to purchase the shop in question by stating that the shop will be available at a price less than the market price and possession will be immediately handed over to him. The petitioner had arranged a meeting with Krishan Lal and Leela Kishan and told that they are owners of the shop. Both of them had assured that the shop is free from all type of encumbrances like mortgage etc. Deal of the said shop was finalized for a consideration of Rs. Two Crore & Ten Lacs only and Rs. Thirty Lacs were paid as earnest money on 11.03.2019 to the petitioner and his co-accuseds Krishan Lal and Leela Krishan The petitioner was asked to give further amount so that possession can be handed over to him in the said month itself. The petitioner

had, thereafter, further given a sum of Rs. 60,00,000/- as a part of consideration in five instalments running from 19th March, 2019. He had thereafter asked Krishan Lal and Leela Kishan to execute the sale-deed but they did not turn up before the Registrar on the date fixed. Feeling aggrieved he visited the said shop and came to know that the petitioner Deepak Nanda @ Vicky Nanda is in actual physical possession of the said shop and claimed himself to be the owner of the same. He has submitted that all the three accused persons in well pre planned criminal conspiracy has cheated him and misappropriated his hard earned money. Thus, as per the allegations appearing on record, the petitioner along with other co-accuseds has prima facie cheated the complainant for an amount of Rs. 90,00,000/-. Case is at the initial stage of investigation. The petitioner is not joining the investigation. His custodial interrogation is required to recover the cheated amount. No grounds for anticipatory bail are, therefore, made out. The anticipatory bail application along with pending application is, therefore, dismissed.

BRIJESH SETHI, J

OCTOBER 17, 2019/Amit