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

+ **BAIL APPLN. 1022/2018**

SATISH CHAUDHARY

..... Petitioner

Represented by: Mr. Ramesh Gupta, Sr. Adv. with Mr.
Vikas Sharma, Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: Ms. Rajni Gupta, APP with SI Shiv
Dev PS EOW.
Ms. Aakanksha Sharma, Adv. for
complainant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

12.02.2019

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1. By this petition the petitioner seeks bail in case FIR No. 174/2008 under Sections 420/468/471/174A/120B IPC registered at PS EOW.
2. Learned counsel for the petitioner contends that the petitioner was wrongly declared as a proclaimed offender despite the fact that he was continuously attending to his activities and had performed the marriage of his children when he was present. After the petitioner was arrested on 27th September, 2016 charge for offence punishable under Section 420 IPC has only been framed against him on 27th February, 2018 and later charge for offence punishable under Section 174A IPC has also been added. He states

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that despite the charge having been framed on 27th February, 2018 and number of dates given for examination of the complainant, the complainant is not coming forward to give his evidence and is seeking adjournment on one pretext or the other. Hence he be granted bail.

3. Learned APP for the State opposing the bail contends that the petitioner was declared a proclaimed offender on 2nd July, 2010 and despite the FIR having been registered in the year 2008 the petitioner was not available for 8 long years and was finally arrested on 22nd September, 2016. She states that the petitioner has been declared proclaimed offender in other cases also.

4. Learned counsel for the complainant has also addressed arguments. She opposes the bail application and states that the petitioner having been declared a proclaimed offender, no bail be granted at this stage.

5. In the above-noted FIR the allegations of the complainant against the petitioner are that the complainant was running a factory by the name of M/s. Ellora Creations having its office at Okhla. To expand the business the complainant desired to purchase land in the NCR region for which one Mr. Manish and Mr. Prashant Agarwal approached him and showed him property bearing No. B-191, Sector-80, Noida Phase -2, Gautam Budh Nagar, U.P. The complainant was also taken by Ajit Singh and Manish to meet the petitioner herein which meeting was held at a guest house where the petitioner was staying. The petitioner represented that he had purchased one plot No. B-191, Sector-80, Noida Phase -2, Gautam Budh Nagar, U.P. admeasuring 23,453 sq.yds in a sale pursuant to the order of DRT-I, Mumbai and has made part-payment of ₹2 crores and that relevant

documents in this regard were already with Ajit Singh, Manish and C.Lal. On the assurance of the petitioner, Ajit Singh and others, complainant agreed to purchase the plot for ₹14.50 crores . An agreement-cum-receipt was prepared and the complainant paid a sum of ₹3 crores to Satish Chaudhary, out of which ₹1 crore was paid in cash, ₹1 crore in the form of demand drafts in the name of DRT-I, Mumbai as desired by the petitioner and remaining ₹1 crore was given to Satish Chaudhary through account payee cheque. A document was shown to the complainant indicating that the property had been purchased for a sum of ₹11.60 crores in public auction and a letter was made to the Tribunal to issue the certificate of sale in favour of the nominee M/s. Aditya Land Pvt. Ltd. It was later revealed that the petitioner has made a false representation and the petitioner was never involved in the bidding proceedings of the said property. Further from the records of Noida authority it was revealed that the petitioner was never the owner of the said property.

6. The two drafts given in the name of DRT-I Mumbai for a sum of ₹1 crore were returned to the complainant and thus the loss to the complainant is ₹1 crore by cash and ₹1 crore in cheque given to the petitioner.

7. Though petitioner has been declared a proclaimed offender and as per the case of the prosecution, could not be arrested for eight long years however petitioner has placed on record documents to show that he had been attending social functions including the marriage of his children.

8. Be that as it may, the only charges against the petitioner are for offences punishable under Sections 420 and 174A IPC. The petitioner has been in custody since 27th September, 2016. Despite number of

opportunities granted to the complainant he is not coming forward to complete his deposition. This Court had even issued directions to the learned Trial Court on 21st January, 2019 to conclude the remaining cross-examination of the complainant however on all the short dates fixed by the learned Trial Court the complainant sought an adjournment. Earlier also adjournments were sought on behalf of the counsel for the complainant.

9. Considering the facts noted above, this Court deems it fit to grant bail to the petitioner. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹5 lakhs with two surety bonds of the like amount out of which one surety would be a family member of the petitioner subject to the satisfaction of the learned Trial Court, further subject to the condition that the petitioner will deposit his passport if any with the learned Trial Court and will not leave the country without the prior permission of the Court concerned and in case of change of residential address, the same will be intimated to the Court concerned by way of an affidavit. The petitioner will also report to the Investigating Officer on the first Monday of every month at 10:00 AM.

10. Petition is disposed of.

11. Order dasti.

CrI.M.A.No.49504/2018

1. Robin Chaudhary is present in Court. He states that the petitioner is his father and in his affidavit he has rightly stated that he is son of the petitioner. He further states that he never represented that petitioner is not his father even in the proceedings under Section 82/83 Cr.P.C initiated against the petitioner. Robin Chaudhary has shown to this Court his election

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identity card as well as the aadhar card wherein the name of the father has been mentioned as Satish Cahudhary.

2. The application is dismissed as there is no misrepresentation by Robin Chaudhary before this Court.

MUKTA GUPTA, J.

FEBRUARY 12, 2019
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