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

\+ BAIL APPLN. 1532/2018

RITA BAGGA ..... Petitioner

Through: Mr. Arun Bhardwaj, Sr. Advocate with Mr. Vansh Gandotra and Mr. Kartik Gandotra, Advs.

versus

STATE (THE NCT OF DELHI) ..... Respondent

Through: Mr.Hirein Sharma, APP for State SI Jainender Kumar, PS – EOW Mr. Rajiv Bajaj and Mr. Sagrika Wadhwa, Advs. for complainant

\+ BAIL APPLN. 1535/2018

AMIT BAGGA ..... Petitioner

Through: Mr. Arun Bhardwaj, Sr. Advocate with Mr. Vansh Gandotra and Mr. Kartik Gandotra, Advs.

versus

STATE (THE NCT OF DELHI) ..... Respondent

Through: Mr.Hirein Sharma, APP for State with SI Jainender Kumar, PS – EOW Mr. Rajiv Bajaj and Mr. Sagrika Wadhwa, Advs. for complainant

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

O R D E R

% **15.10.2019**

Vide the present petitions, the petitioners seek anticipatory bail in the event of arrest in FIR No. 127/2018, registered at Police Station – Patel

Nagar for the offences punishable under Sections 420/34 IPC.

It is not in dispute that vide order dated 05.07.2018, the petitioners were granted interim protection and directed to appear before the IO on 07.07.2018 at 2 PM at Police Station – Economic Offences Wing.

Thereafter, the matter was listed before this Court on 26.10.2018. On the said date, Mr. Rajiv Bajaj, Advocate appeared on behalf of the complainant and prayed for supply of copy of paper book. Copy was accordingly supplied and the matter was listed on 07.12.2018 with interim protection given to the petitioners to continue.

Thereafter, the matter was listed on 07.12.2018 and learned counsel for the complainant submitted that after the petitioner got interim protection vide order dated 05.07.2018, he approached the respondent/ complainant for settlement and handed over a cheque in the sum of ₹50 lakhs, which has subsequently been dishonoured. Accordingly, the petitioner – Amit Bagga was directed to remain present personally in Court on the next date of hearing.

On 12.12.2018, learned counsel for petitioner submitted that the subject cheque of ₹50 lakhs, which was shown by the respondent on the last date was never handed over by the petitioner. He submits that these cheques amongst other cheques were executed in blank in January, 2016 for some other purpose and probably one of the cheques has reached to the respondent/complainant. He submits that photocopy of the same were taken on 28.01.2016 from his cell phone as is available in his cell phone.

Learned counsel appearing for the complainant, under instructions, submitted that this cheque was handed over to the complainant on 22.11.2018 at his residence when petitioner had come to his residence at around 10 AM in the morning.

Accordingly, the petitioner was directed to produce, the digital copy of the image, copy of which was shown in the Court. Further the Investigating Officer was directed to obtain the call details and the cell phone location of the petitioner as well as the complainant on 22.11.2018 for the period 9 AM to 11 AM.

Thereafter, the matter was taken on 20.12.2018 and it is recorded by this Court that pursuant to order dated 12.12.2018, digital copy of the image of cheque has been produced which prima facie shows that image was captured on 28.01.2016. Further, the status report filed by the I.O. states that the location of the petitioner on 22.11.2018 at the relevant point of time was at Juhu, Mumbai, Maharashtra and not at the residence of the complainant. Further the status report indicates that the complainant's presence is at Sector-22, Noida, Uttar Pradesh at around 10.00 AM and not at his residence.

It is not in dispute that the complainant has filed suit for declaration and permanent injunction bearing CS(OS) No. 320/2018 which is pending adjudication.

The alleged incident pertains to the year 2016. The complainant made the complaint on 04.05.2018 which culminated into the FIR in question.

From the FIR, it is established that the complainant came to know that he has been cheated in the month of May, 2016. Despite the fact that the accused No. 1 executed Agreement to Sell with Receipt, GPA and Possession Letter of 3/4th part of the land in question, the entire land was subsequently sold by accused No. 1 to accused No. 4 vide Sale Deed dated 30.05.2016. The allegation against Amit Bagga, who is son of accused No.1, is that he is a signatory in the agreement to sell, receipt and possession letter as a witness. Case against the petitioner is under Section 420/467/120B IPC. The case of the petitioner – Amit Bagga is that he does not enjoy good relations with his father except meeting him occasionally on some social functions.

The case of the complainant is that the petitioner – Amit Bagga in conspiracy, signed the documents in question as witness with the complainant.

This Court puts a specific query to the learned counsel for the petitioner and learned counsel for respondent as well that whether the petitioner- Amit Bagga was witness in Sale deed dated 30.05.2016 in favour of A-4. The reply thereto is in negative.

It is also pointed out by learned counsel for the complainant that petitioner – Amit Bagga received an amount of ₹30 lakhs from total amount of ₹50 lakhs received by the accused No. 1 through bank transactions.

Learned counsel for petitioner has produced bank statements of account in Standard Chartered Bank, Branch- Defence Colony, maintained by Amit Bagga, whereby it is established that on 5th and 6th January, 2016, the petitioner - Amit Bagga has received an amount of ₹15 lakhs each on the aforesaid dates (i.e. a total amount of ₹30 lakhs). Thus, he received an amount of ₹30 lakhs from total amount of ₹50 lakhs from the respondent No. 1 through bank transactions.

The bank statement further reveals that on 20.02.2016 i.e. in the next month, Amit Baga returned the amount to accused No. 1, who is his father.

It is not in dispute that the petitioner joined investigation as and when called by the IO till date.

Therefore, without commenting on the case of the prosecution, I am of the considered view that present case is fit for anticipatory bail. Accordingly, SHO/ Arresting Officer/IO concerned, is hereby directed that in the event of arrest, the petitioners/ applicants be released on bail on the following terms and conditions:-

(i) That the petitioners shall furnish a personal bond in the sum of ₹50,000/- each with two sureties each of like amount subject to the satisfaction of Arresting Officer/SHO/IO concerned;

(ii) That the petitioners shall cooperate with the investigation and make themselves available for interrogation by police officer, as and when required;

In case of default of aforementioned conditions, the State is at liberty to take appropriate recourse in accordance with law.

Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case.

Both the petitions stand allowed and disposed of accordingly.

SURESH KUMAR KAIT, J

OCTOBER 15, 2019

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