

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

Reserved on : 21.01.2020
% *Pronounced on* : 13.03.2020

+ **BAIL APPLN. 2338/2019**

RAJESH GOYAL Petitioner

Through: Mr. Ajit Kumar and Ms. Nikita
Sharma, Advocates.

versus

THE STATE (N.C.T OF DELHI) Respondent

Through: Mr. Amit Ahlawat, APP for the
State with SI S.K. Jha, PS Sarai
Rohilla.

Mr. Dhruv Singh, Advocate for
complainant.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

CRL.M.A.36124/2019

Exemption allowed, subject to just exceptions.

The application stands disposed of.

BAIL APPLN. 2338/2019

1. This is an application filed under Section 438 Cr.P.C on behalf of the petitioner for grant of anticipatory bail in case FIR No. 22/2019

under Sections 420/468/471/506/406 IPC registered at Police Station Sarai Rohilla.

2. In brief the facts of the case are that the petitioner purchased a property bearing No. B-1498/1 from one Ms. Krishna Chauhan on 04.10.2011 in his name and in the name of his wife and daughter. Thereafter the petitioner executed a bayana receipt on 17.06.2013 in favour of complainant for a sum of Rs.61 Lakh in regard to upper floor of B-1498/1 admeasuring 80 sq. yards. The complainant paid a sum of Rs.5 Lakh as bayana and the remaining amount of Rs. 56 Lakh was to be paid before 17.06.2014.

3. The complainant further made payment of Rs. 25 Lakh on 14.07.2013. After receiving the payment of Rs. 30 Lakh, complainant had taken the possession of the said portion of the property and is still in the possession of the same.

4. It is alleged that when the complainant asked the petitioner to execute the documents and accept the balance amount, he lingered on the matter on one pretext or the other and on enquiries, it was revealed that the petitioner was not the owner of the said property on the date of bayana receipt, civil litigation qua the property was pending and it was booked by the MCD for demolition due to unauthorized construction.

5. I have heard the Ld. counsel for the petitioner, Ld. APP for the State and have also perused the status report filed by the state.

6. It is urged by the Ld. counsel for the petitioner that the petitioner is the owner of the property alongwith his wife and daughter. He further urged that the complainant has given a criminal colour to a civil dispute. He further urged that the complainant was not ready and willing to purchase the property by paying the balance amount and he has falsely registered the present FIR against the petitioner. It is further urged that the petitioner has already refunded a sum of Rs. 10 Lakh to the complainant and is ready to refund the balance amount of Rs. 20 Lakh after the vacation of the premises in question which is in the possession of the complainant.

7. On the other hand, it is argued by the Ld. APP for the State that the allegations against the petitioner are grave and serious in nature and the property when sold was not free from dispute and encumbrances. He further urged that the petitioner has concealed the fact that the property was booked by the MCD for demolition on account of unauthorized construction.

8. In the instant case, the petitioner alongwith the bail application has filed the copy of the registered sale deed of the property in question and the perusal of the same shows that the property in question has been jointly purchased by the petitioner alongwith his wife and daughter from Ms. Krishna Chauhan, so the petitioner is one of the co-owner of the property in question, therefore, it cannot be said that there is any cloud over the ownership. Even otherwise, the petitioner has already paid a sum of Rs. 10 Lakh to the complainant out of the total amount of Rs. 30 Lakh received by him from the

complainant. During the course of the arguments the counsel for the petitioner submitted that the petitioner is also ready to pay the remaining amount of Rs. 20 Lakh to the complainant but the same was not acceptable to the complainant.

9. It is also a matter of fact that the complainant is in possession of the property in question. As per the status report, the petitioner has also joined the investigation and there is not even a single averment in the status report that he has not co-operated in the investigation. Therefore, in these circumstances, no custodial interrogation of the petitioner is required, the bail application is, therefore, allowed and it is ordered that in the event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the IO/SHO concerned. However, the petitioner is directed to join the investigation as and when called by the IO. The bail application is disposed of accordingly.

10. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

11. Order *Dasti*.

RAJNISH BHATNAGAR, J

MARCH 13, 2020

Sumant