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

% **Date of Decision: 19.02.2020**

\+ **BAIL APPLN. 224/2020**

ARVINDER SINGH AND ANR. ..... Petitioner

Through: Mr. Sanchit Garga & Nitinkant Ahluwalia, Advocates.

versus

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

Through: Mr G M Farooqui, APP for State alongwith SI K P Rana, PS Sonia Vihar.

CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI

<u>J U D G M E N T</u>

<u>BRIJESH SETHI, J (ORAL)</u>

1. Vide this order, I shall dispose of an anticipatory bail application filed on behalf of the petitioners Arvinder Singh & Gurvinder Kaur under section 438 Cr.P.C. in FIR No. 585/2019 u/s. 420 IPC PS Tilak Nagar.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioners are innocent and have been falsely implicated in the present FIR. It is submitted that it is basically a civil dispute between the parties which has been given the colour of a criminal complaint.

3. It is submitted that petitioners are ready to join the investigation as and when required and has, therefore, prayed that he be released on bail in the event of his arrest.

4. The application is opposed by the Ld. APP for the State on the ground that the complainants have been cheated by the petitioners as the property in question which was sold to them already stood sealed by the MCD at the relevant time. It is submitted that petitioner Arvinder Singh was not authorized to deal in the property by Sh. Davinder Singh or his wife. Cheated amount of Rs. 75,21,000/- is yet to be recovered. Ld. APP has, therefore, prayed for dismissal of the anticipatory bail application.

5. I have considered the rival submissions. Record reveals that complainants Vipin Pahwa & Amit Pahwa made a complaint that petitioner **Arvinder Singh** proposed them to sell the Property 208/96A, Tilak Nagar, Delhi stating that he and his partner **Davinder Singh** have purchased the said property in the name of their wive's Mrs. Gurvinder Kaur & Mrs. Deep Kaur. He further stated that he is the lawful power of attorney holder of Gurvinder Kaur and Deep Kaur for the purpose of constructing and selling the said property and has undertaken the construction of said property as per sanction building plan and the right, title and interest, in the said property are absolutely clean and free from all sorts of encumbrances/notice/charges/litigation. On the basis of aforesaid inducement and representation by the petitioner Arvinder, the complainants agreed to purchase the said property for a total consideration of Rs. 1,40,21,000/- payable by 01.03.18.

On 25.09.17 an agreement between complainant Vipin Pahwa and alleged Arvinder Singh was also executed for the aforesaid deal. The complainant gave a sum of Rs. 75,21,000/- to the petitioners out of which Rs. 15 lacs was given through cheque and remaining was given through cash. Arvinder Singh provided the copy of the chain of the documents of the said property and on the basis of the property documents, the complainant got approved loan against property from ICICI Bank for the rest of payment. During the processing of loan documents, it was first decided between the complainants and the petitioners that sale deed will be registered on 26.12.17. However, later on the date was shifted to 31.01.2018. Meanwhile the complainant came to know from official of ICICI Bank that technical objection has been raised to the effect that some portions of the said property is unauthorized. The complainant, had thereafter, informed Arvinder about the same. The petitioner, however, stated that, there is no unauthorized construction and represented that they should not worry, as he would get the completion certificate from MCD, before execution of the sale deed. However, in the last week of January, 2018 Arvinder Singh stated that the registry cannot be done by 31.01.18 as it will take some time to get the completion certificate of the property. Believing the representations of Arvinder Singh to be true and correct, the complainant entered into an agreement dated 28.02.18 for cancellation of agreement executed on 25.09.17 as Sh. Arvinder Singh will start returning their payments. However, Arvinder Singh did not return any money to the complainants. Accordingly a complainant was lodged at Police station.

6. During the course of the investigation copy of the agreements and other documents were obtained. **Davinder Singh and his wife were also interrogated who stated that they had not signed any power of attorney in favour of Arvinder Singh and nor authorized him to deal in his property on behalf of him or his wife namely Deep Kaur**. During enquiry it was found that the 50 % of the said property (petitioner's share) has been sold to another person namely Rahul Batla. The complainant also produced the paper relating to MCD which shows that at the time of said agreement, the property stood sealed by MCD.

7. Perusal of the above facts reveals that petitioners have cheated the complainants as the property in question already stood sealed by the MCD at the time of alleged agreement. Moreover, co-owner Davinder Singh & his wife have categorically stated that they had never signed any Power of Attorney in favour of the petitioners and neither authorized the petitioners to deal with the property in their name. Recovery of Rs. 75,21,000/- is still to be effected from the petitioners. In view of the above facts appearing on record and nature of offence and the fact that custodial interrogation of the petitioner is required for recovery of amount, no grounds for anticipatory bail are made out. The anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

FEBRUARY 19, 2020

Amit