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

Date of Decision: 04th April, 2022

\+ **BAIL APPLN. 1042/2022**

MANOHAR SITARAM PATIL ..... Petitioner

Through: Mr. Kunal A. Cheema & Mr.Vatsalya Vigya, Advocates.

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr. Avi Singh, ASC for the State with Mr. Karan Dhalla & Ms. Mizba Dhebar, Advocates with SI Dharmendra Pratap Singh, PS EOW, Delhi.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

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The proceedings in the matter have been conducted through hybrid mode [physical and virtual hearing].

CRL. M.A. 6140/2022(*Exemption*)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 1042/2022

1. By way of this application under Section 439 of the Code of Criminal Procedure, 1973 [hereinafter, "CrPC"], the applicant seeks regular bail in connection with FIR No. 112/2010, dated 29.07.2010, registered at Police Station Economic Offences Wing, Delhi, under

Sections 406/420/120B of the Indian Penal Code, 1860 [hereinafter, "IPC"].

2. The FIR was registered on a complaint dated 29.07.2010, filed by one Ajeet Gupta, who was an employee of Indian Farmers Fertilizer Cooperative Limited [hereinafter, "IFFCO"]. It was alleged in the complaint that the employees of IFFCO entered into certain monetary transactions with one M/s Pragati Land and Housing Corporation ["hereinafter, "PLHC"], of which the applicant is a partner. By way of these transactions, PLHC was to deliver plots to its investors in the project "*Pragati Valley*" by 15.05.2007. It was further alleged that around 114 employees of IFFCO booked their plots in the said project and paid a total of Rs 1.25 crores to PLHC. The complainant further alleges that PLHC, however, neither delivered the plots, nor refunded the amount which was collected from the employees of IFFCO. It is further alleged that the applicant, alongwith his other co-accused, duped innocent employees of IFFCO by misrepresenting that they had purchased 300 acres of land in Karjat, District Raigad, Maharashtra for developing their residential township.

3. The applicant was arrested in connection with the present FIR on 19.09.2014. By an order dated 27.05.2015, passed by the learned Chief Metropolitan Magistrate [hereinafter, "CMM'], the applicant herein was granted interim bail for a period of 120 days. It is noted in the order of the CMM that the accused sought interim bail on the ground that he had already settled the disputes with the complainant pursuant to which they had entered into a Memorandum of

Understanding, and a sum of Rs. 62,48,203/-, out of the total collected money, was already paid to them through 115 Demand Drafts. He further prayed that he be released on interim bail for raising the remaining 50% funds for settling the disputes with the persons who were defrauded by PLHC. The interim bail was extended by various orders of the CMM until 2017, primarily on the ground that the applicant is willing to settle the matter with the investors and that he needs more time to return the money to the affected persons.

4. However, by an order dated 19.07.2017, the applicant's application for exemption from personal appearance was rejected by the CMM, and non-bailable warrants [hereinafter, "NBWs"] were issued against him. The personal bond as well as the surety bond was forfeited and notice to the sureties under Section 446 of the CrPC was issued. It was also noted in this order that the accused persons did not contact the complainant for settlement and that they were deliberately trying to delay the proceedings before the Trial Court. The applicant did not enter appearance before the Trial Court even after the issuance of the NBWs, and subsequently proceedings under Sections 82 and 83 of the CrPC were commenced against him. He, alongwith the other co-accused, was, therefore, declared a Proclaimed Offender [hereinafter, "PO"] by an order dated 08.05.2018, passed by the CMM.

5. The applicant was arrested from Karjat, Maharasthra [where he was in judicial custody in relation to some other case] on 19.08.2021 in connection with another FIR [FIR No 220/2011, PS EOW], and was taken into custody in the present case on 17.09.2021 by the Link

Metropolitan Magistrate. The applicant's application for bail has since been rejected by the CMM *vide* an order dated 09.12.2021, and by the Sessions Court *vide* an order dated 06.01.2022.

6. The order of the CMM dated 09.12.2021, *inter alia* records that after filing of the chargesheet, the accused and other co-accused stopped appearing before the Trial Court, as a result of which the trial has also been delayed. It is also noted in the order that the applicant has been arrested after great efforts of the police. The CMM, while rejecting the bail application, noted that the previous conduct of the applicant was not suitable for him to be enlarged on bail.

7. The applicant thereafter filed his first bail application under Section 439 of the CrPC before the Sessions Court, which came to be rejected on 06.01.2022. The application was rejected *inter alia* on the ground that PLCH, in which the applicant was a partner, had collected huge amount of money from the general public on the pretext of selling them plots. Further, it noted that the allegations against the applicant were not only in respect of cheating people, but also committing forgery of documents. It was unearthed during the investigation that the accused did not have the requisite permissions from the government and that they had forged documents such as site maps etc. to show that their project was genuine. The Court has also noted the contents of the reply to the bail application, filed by the Investigating Officer, which are as follows:-

> *"4. IO concerned filed reply stating that accused is one of the partner in PLHC which had launched residential plots township under the name 'Pragati Valley' at Karzat in District Raigad near Navi Mumbai, Maharashtra. Large*

publicity was done in the newspapers in Delhi based on false facts to the effect that said township is government approved. Accused Dattatray Mohite and Ashley Concessio purchased the agricultural land in different villages of Tehsil Karzat, District Raigad, Maharashtra and induced people by claiming that they had collectively acquired 300 acres of land in and around Karzat. PLHC thereafter opened various bank accounts for collecting money from investors. All the three partners including accused were authorised signatories of the said accounts. Huge amount were collected from investors based on said representations. During investigation, it was found that no government permission was obtained by PLHC or its partners for developing said township. As per report of Town Planner Department, no such permission was granted to the accused to develop the said township. Accused persons had fabricated the MAP documents with dishonest intention for defrauding public at large. Besides offence of cheating, accused had committed offences punishable u/sec. 468/477 IPC. No land was found registered in the name of PLHC or accused in question during investigation. Though, accused has paid Rs. 1.24 crores to IFFCO group but co- complainants are yet to be paid an amount of Rs. 5.41 crores. Coupled with the same, accused was declared proclaimed offender one he stopped appearing in the court, by the concerned court vide order dated 08.05.2018. Accused is involved in various FIRs viz.

1. FIR No. 220/11, U/Sec. 420/406/468/471/120B IPC, PS-EOW.
2. FIR No. 14/12, U/Sec. 420/406/468/471/120B IPC, PS-EOW.
3. FIR No. 55/10, U/Sec. 420/406/467/468/471/34 IPC, PS- Karjat.
4. FIR No. 56/10, U/Sec. 420/406/467/468/471/34 IPC, PS- Karjat.
5. FIR No. 57/10, U/Sec. 420/406/467/468/471/34 IPC, PS- Karjat.

6. FIR No. 63/11, U/Sec. 420/406/467/468/471/34 IPC, PS- Karjat.
7. FIR No. 388/14, U/Sec. 420/120B IPC, PS- Amar Colony.

Hence, it was prayed that bail application must be dismissed."

8. Mr. Kunal A. Cheema, the learned counsel for the applicant, does not dispute the contents of the order of the CMM, and the Sessions Court, so far as they relate to the conduct of the applicant in not appearing before the Trial Court. However, he submits that this was due to some miscommunication between the applicant and his counsel. Mr. Cheema clarifies that until 2018, the applicant was, in fact, present before the Trial Court on several occasions either personally or through counsel. However, for the period between 2018 and 2021, Mr. Cheema accepts that the applicant did not remain present before the Trial Court. He also submits that the applicant has, in fact, refunded the entire payment of the principal amount received by PLHC from the 114 complainants covered in the present FIR.

9. Mr. Avi Singh, learned Additional Standing Counsel for the State, appears on advance notice, and disputes the contention of the applicant in respect of payment of the principal amount made to the complainants. In any event, he submits that there are many other victims who were defrauded by the applicant alongwith his associates with the same *modus operandi* and that the applicant is involved in atleast seven other FIRs wherein the allegations are almost similar to those in the present case. The application is further opposed on the ground that the applicant deliberately evaded the process of law by not

surrendering pursuant to expiry of the interim bail which was granted to him for settling the matter with the complainants.

10. Mr. Cheema, however, submits that out of the seven other FIRs which are pending against the applicant, three relate to the same transactions as the present FIR, and have been closed by the concerned court in Maharashtra. He further submits that the remaining three FIRs are also related and a joint trial is in progress.

11. Having heard learned counsel for the parties, I am of the view that the applicant is not entitled to bail in the present FIR. He, undisputedly, failed to surrender in terms of the order of interim bail granted to him on 27.05.2015. The applicant, in fact, remained out on interim bail for a period of more than two years, and was declared as a PO only on 08.05.2018. He was re-arrested in the present case on 17.09.2021 i.e. more than three years after he was declared as a PO. Undoubtedly, it is because of this reason that the trial has also been delayed by a considerable time. In these circumstances, the conduct of the applicant does not support the contention that he is not a flight risk and that he will be available, as and when required by the Trial Court.

12. The nature of allegations against him are also relevant in this context. In this FIR alone, the allegations of cheating in respect of 114 home buyers have been made. The applicant is alleged to have cheated hundreds of such innocent homebuyers who invested their money with his project with the hope to have a house of their own. Suffice it to say that the allegations levelled against the applicant are of serious economic offences, in respect of which the Supreme Court in *Y.S.*

Jagan Mohan Reddy vs. Central Bureau of Investigation (2013) 7 SCC 439 has cautioned as follows:

> *"**34.** Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
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> ***35.*** *While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."*

13. In view of the forgoing discussion, I am of the view that it is not appropriate to enlarge the applicant on bail at this stage. As a result, the present application is dismissed.

14. It is made clear that any observation made in this order is only for the purpose of disposal of the present application, and will not prejudice the parties at the trial.

PRATEEK JALAN, J

APRIL 04, 2022
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Click here to check corrigendum, if any