



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

% **Reserved on : 15.09.2023**
Pronounced on : 21.09.2023

+ **BAIL APPLN. 1618/2023**

ARVIND KUMAR

..... Petitioner

Through: Mr. Kirti Uppal, Sr. Advocate with
Ms. Nishi Chaudhary, Ms. Riya
Gulati and Mr. Mayuresh Rishabh,
Advocates.

versus

THE STATE (GOVT OF NCT OF DELHI)

.... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with Satbir Singh, PS Dwarka South.
Ms. Kajal Kadam, Mr. Abhishek
Yadav and Ms. Chanchal,
Advocates for Complainant.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No. 68/2021 under Sections 420/406/34 IPC registered at Police Station Dwarka South, District South-West, New Delhi.



2. In brief, the facts of the case are that the complainant gave a written complaint on 13.02.2021 wherein she had asserted that she is a 70 years old widow and has been cheated to the tune of Rs.1.59 Crores by the property agent namely Arvind Kumar (petitioner herein) on the pretext of selling house in Sector-10, Dwarka, New Delhi.

3. It has been alleged by the complainant that her daughter-in-law availed services of 'Urban Clap' for salon at home and for the said services, Mrs. Babli Tomar visited her house on 11.03.2019. She further alleged that said Babli Tomar told her that her husband Arvind Kumar (present petitioner) is a property dealer and he can get her best deals of property in Delhi. On the representation of Babli, the complainant contacted the petitioner Arvind Kumar. The complainant was interested in purchase of an immovable property. Accordingly, the petitioner Arvind Kumar showed her few houses in Dwarka New Delhi and finally a house No. B-005, Ground Floor, Paragjyotishpur Apartment, Plot No.7, Sector-10, Dwarka, New Delhi was selected by the complainant for its purchase.

4. It is further alleged by the complainant that petitioner told her that the said property belongs to one NRI Mrs. Parminder Kaur, residing in USA. She alleged that the petitioner told him that he is looking after all the properties of Parminder Kaur in Delhi and the deal of the said property can only be materialized through him. The complainant further alleged in her complaint that on the said



representation of the petitioner, from April, 2019 to November, 2019, she paid Rs.52.47 lacs through cheque from her account, Rs.48.256 lacs from the account of her son Sh. Kanwal Pal Singh and Rs.58.274 lacs in cash to the petitioner towards sale consideration of the said property.

5. The complainant further alleged that the petitioner kept on avoiding execution of registered documents of the said property in her favour on one pretext or another. Eventually, the petitioner told the complainant that the owner of the said property has cancelled the deal and out of total sum of Rs.1.59 Crores, she would get back only Rs.70 lacs as the remaining payment was submitted to the Registrar, DDA, BSES, Electricity and Jal Board office. The complainant further alleged that petitioner did not give any proof of the said payment to the said departments and promised to pay said Rs.70 lacs by the mid of December, 2019. But subsequently, he failed to pay even the said amount. The complainant alleged that she has been dishonestly and fraudulently induced by the petitioner to deliver Rs.1.59 Crores to him on the pretext of sale of the said property and petitioner and co-accused Babli cheated her for the said amount.

6. I have heard the Ld. Senior counsel for the petitioner, Ld. APP for the State assisted by the Ld. counsel for the complainant, perused the status report and also perused the records of this case.



7. It is submitted by the Ld. Sr. counsel for the petitioner that the petitioner is in J.C. since 18.08.2021 for the offences in which maximum punishment is 7 years. It is further submitted that the charge sheet has already been filed, so all the evidence is in the possession of the prosecution. It is further submitted that the petitioner Arvind Kumar is a financier/money lender and is in no way connected with the alleged offence and has been falsely implicated at the behest of the complainant. It is further submitted that the alleged offence was committed in the year 2019 but the FIR was registered in the year 2021 and there is no explanation to this delay in lodging the present FIR.

8. It is further submitted by the Ld. Sr. counsel for the petitioner that the son of the complainant and his wife had approached the petitioner for a loan of Rs.80 Lakh as he had intention to open an authorized Maruti Service Station. It is further submitted that on the contrary the complainant and her family members had induced the petitioner to give a sum of Rs. 80 Lakh to them and therefore, the petitioner had taken a loan of Rs. 60 Lakh from one Jaiveer Singh Tomar, Rs. 11 Lakh from co-accused Babli and a sum of Rs. 9 Lakh was arranged by the petitioner from his own sources. It is further submitted that it is the petitioner who is the aggrieved person and not the complainant and her son.



9. On the other hand, Ld. APP for the State with the assistance of the Ld. counsel for the complainant submitted that the allegations against the petitioner are grave and serious in nature. It is further submitted that the petitioner had taken Rs. 1.59 Crores towards the purchase of a flat in Dwarka and had cheated the complainant. It is further submitted that the petitioner is involved in many cases of similar nature. It is further submitted that the voice of the petitioner had matched wherein it is observed that he is admitting the receipt of payment in consideration of flat and as well as threatening of forfeiture of the received amount. It is further submitted that the petitioner used to get money from the complainant which was withdrawn by him and the house in which the petitioner was earlier residing was purchased by him from the money of the complainant. It is further submitted that no cheated amount has been recovered till date.

10. During the course of the arguments, apart from submitting on the merits of the bail application, Ld. Sr. counsel for the petitioner has vehemently argued that the maximum punishment provided for the offences for which the petitioner has been charged is up to 7 years and he is in J.C. since 18.08.2021, so it is argued that the petitioner has already undergone a sufficient period of incarceration looking into the offences for which he has been charged and he has relied upon ***Arnesh Kumar Vs. State of Bihar & Anr., Criminal Appeal No. 1277/2014*** decided by the Hon'ble Supreme Court on 02.07.2014.



11. In the instant case, the petitioner is in J.C. since 18.08.2021 and the maximum punishment provided for the offences for which he has been charged is up to 7 years. The offence relates to the year 2019 and the FIR was filed in the year 2021. There are allegations and counter allegations which can only be looked into at the time of trial. Charge sheet has already been filed and now no purpose would be served by keeping the petitioner in J.C. Therefore, looking into the period of incarceration and the offences mentioned in the charge sheet, the application is allowed and the petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount to the satisfaction of the Ld. Trial Court and subject to the condition that he shall not tamper with the evidence or threaten the witnesses. The bail application is disposed of accordingly.

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

RAJNISH BHATNAGAR, J

SEPTEMBER 21, 2023

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