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IN THE HIGH COURT OF DELHI AT NEW DELHI**Date of decision: 20th October, 2023**

+ BAIL APPLN. 2526/2023, CRL.M.A. 24145/2023 (For Extension of Interim Bail) & CRL.M.A. 27597/2023 (Additional Documents)

MD. SHAHID@ MUNNA BUILDER Petitioner

Through: Mr. Tanveer Ahmed Mir, Mr. Shaurya Tyagi & Mr. Shashwat Sarin, Advocates.

versus

STATE OF NCT OF DELHI Respondent

Through: Mr. Aman Usman, APP for the State with Insp. Balmukund Rai, P.S. Chandni Mahal.
Mr. Arun Bali, Ms. Arisha Ahmad and Mr. Tushar Mehta, Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT**AMIT SHARMA, J.**

1. The present application under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') seeks regular bail in case FIR No. 376/2022 under Sections 420/467/468/471/120B/34 of the Indian Penal Code, 1860 ('IPC') registered at PS Chandni Mahal.



2. By a separate judgment of the same date passed in BAIL APPLN. 2524/2023 titled 'Md. Shahid @ Munna Builder v. State of NCT of Delhi', this Court has disposed of an application seeking regular bail filed on behalf of the applicant herein, in case FIR No. 191/2022 under Sections 380/448/453/420/467/468/471/120B/34 of the IPC registered at PS Chandni Mahal. The said FIR was registered at the instance of Smt. Kusum Lata based on a set of similar facts and circumstances, as in the present case.

3. The facts of the present case, as stated in the status report dated 04.08.2023 authored by SHO, PS Chandni Mahal, are as under:

- i. The present FIR was registered at the instance of Sh. Gopal Krishna Gandhi, based on allegations related to hatching of a criminal conspiracy for fabrications of documents in relation to his property, i.e., 2429-30, Kamra Bangash, Chandni Mahal ('the property').
- ii. The complainant stated that the property was purchased by his mother, Smt. Santosh Kumari from one Rehmat Ali on 07.12.1989. A sale deed was executed which was duly registered and physical possession of the property was obtained. On 30.11.2018, when the complainant's mother passed away, the property passed on to him, as he was the only child.
- iii. The complainant further stated that in February 2021, the shop was given on rent to one Mohd. Tufail and subsequently, to one Faisal Khan.
- iv. On 03.10.2022, the applicant visited the property and showed certain documents, such as electricity bill, and also pasted a notice on the wall, demanding rent from the tenant Faisal Khan. When the issue was brought to the notice of the complainant, he visited the BSES office and



learnt that the electricity connection installed in his name had been changed by the applicant, based on a sale deed which was purportedly executed in his favour by co-accused Mohd. Rehman on 25.05.2022.

- v. On 04.10.2022, the complainant visited the office of the sub-registrar and learnt that the said co-accused Mohd. Rehman had registered a sale deed in favour of the applicant. The complainant further learnt that Mohd. Rehman had represented himself to have purchased the property from one Mohd. Shafiq. The complainant stated that the document purportedly executed by his late mother Smt. Santosh creating an interest in the property in favour of Mohd. Shafiq is forged.
- vi. On the basis of the statement of the complainant, the present FIR was registered under Sections 420/468/471/120B/34 of the IPC.
- vii. The applicant was arrested on 19.04.2023.
- viii. Upon completion of investigation, the chargesheet in the present case was filed under Sections 420/467/468/471/120B/34 of the IPC.

4. Learned counsel for the applicant submitted that the latter has been falsely implicated in the present FIR. It was submitted that the applicant is a builder by profession, engaged in the business of selling built houses. It was submitted that the property was purchased by the applicant from one Mohd. Rehman on 25.05.2022. It was further pointed out that Mohd. Rehman had purchased the property from one Mohd. Shafiq on 08.06.2001. Learned counsel for the applicant submitted that on an enquiry from the office of the registrar pertaining to the details of the registration number mentioned in the lease deed relied upon by the complainant it was stated that the details provided by the applicant did not match with their records. Relying on the



same, it was urged that the claim of the complainant with regard to ownership of the property is doubtful.

5. Learned counsel for the applicant submitted that the investigation in the present case is complete and the chargesheet stands filed. In support of the said contention, learned counsel for the applicant placed reliance on the following judgments:

- i. **Maninder Singh v. State of NCT of Delhi, 2020:DHC:1519 -**
Learned counsel for the applicant placed reliance on this judgment to submit that once the chargesheet has been filed and the necessary recoveries have been effected by the Investigating Officer, no useful purpose will be served by retaining the applicant in judicial custody any further.
- ii. **Amit Nagpal v. State (NCT of Delhi), 2015:DHC:5646-DB-** It was submitted that in the said case, a learned Single Judge of this Court while placing reliance on the judgment of the Hon'ble Supreme Court in Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40, observed that the object of bail is to secure the presence of the accused person at trial and pre-conviction detention should not be resorted to except in cases where it is absolutely necessary.
- iii. **Ritu Palgotra v. State Govt. of NCT of Delhi & Anr., 2023:DHC:6879 -** Reliance on this Judgment was placed to submit that the genuineness of the documents relied upon by either parties is not relevant at this stage and can only be examined by the concerned Trial Court.



- iv. **Rishi Gupta v. State of NCT of Delhi, Order dated 03.08.2023 passed by a coordinate bench in BAIL APPLN. 2506/2023** - Reliance was placed on this order to submit that the fact that the applicant was not arrested from registration of the FIR on 31.05.2022 till 18.04.2023 itself indicates that he has been cooperating with the investigation.
6. Learned counsel for the applicant further relies upon the judgments of the Hon'ble Supreme Court in **Mohammad Ibrahim and Others v. State of Bihar and Another, (2009) 8 SCC 751** and **Sheila Sebastian v. R. Jawaharaj and Another, (2018) 7 SCC 581** to canvas the issue that the present applicant is not the maker of the forged documents.
7. *Per contra*, learned APP for the State, assisted by learned counsel for the complainant submitted that during the course of investigation, persons from the locality were examined and it came on record that at no point of time, the applicant or any of his family members were in possession of the property. It was further stated that during the course of investigation, the complainant produced chain of documents, including bank account statements to corroborate receipt of rent from the tenant, which establish that he is absolute owner of the property. It was submitted that the person who allegedly bought the property from the complainant's mother, i.e., Mohd. Shafiq has since passed away in 2019. It was further pointed out that in the other FIR No. 191/2022 which is the subject matter of BAIL APPLN. 2524/2023, the present applicant has claimed to have purchased the property in question therein from the same Mohd. Shafiq.



8. It is also stated in the additional status report that as per the applicant, he had purchased the property from Mohd. Rehman for consideration of Rs. 8.85 Lakhs, paid by way of two cheques of Rs. 4 Lakhs and Rs 4.85 lakhs and during investigation, no such bank transactions were found. It was further pointed out that as per the documents relied upon by the applicant, Mohd. Rehman had purchased the property from Mohd. Shafiq in 2001 and had sold the property to the applicant in 2021. Despite being the alleged owner of the property for a period of 21 years, there is nothing on record to show that Mohd. Rehman was in possession of the property. Mohd. Rehman is also a witness to the gift deed executed by the applicant in favour of his wife with regard to the property in FIR No. 191/2022 which is subject matter of BAIL APPLN. 2524/2023.

9. It was argued that the present applicant, in connivance with co-accused Mohd. Rehman is in a habit of creating documents to establish his ownership and has used the name of Mohd. Shafiq, who admittedly passed away on 13.05.2019.

10. Heard learned counsel for the parties and perused the record.

11. Two primary grounds for grant of bail have been urged on behalf of the applicant – firstly, the investigation in the present FIR is complete and since the chargesheet stands filed, no useful purpose will be served by keeping the present applicant in further judicial custody and secondly, that the ownership of the property is the matter of trial. Both the parties have relied upon certain chain of documents to substantiate their respective claims of ownership. The veracity or genuineness of the said documents, it was argued, cannot be conclusively adjudicated upon at this stage. It was further submitted that the



all the relevant documents have been handed over to the Investigating Officer, however, he chose to ignore the same. It is pertinent to note that the present applicant was granted interim bail on account of a surgery *vide* order dated 07.08.2023 passed by this Court, which was extended subsequently from time to time on account of his ongoing medical treatment.

12. The proposition of law laid down in the judgments relied upon by learned counsel for the applicant is not in dispute. The applicant is also involved in FIR No. 191/2022 registered at PS Chandni Mahal, wherein he has adopted a similar *modus operandi* of placing reliance on chain of *prima facie* forged documents to demonstrate his possession and ownership of the property which is stated to be owned by the complainant therein.

13. The contention of learned counsel for the applicant that the present case is a civil dispute is not tenable, in view of the facts stated hereinabove. In the present case, the documents relied upon by the applicant to claim ownership *vis a vis* the documents placed by the complainant and collected by the Investigating Officer during the investigation do not inspire confidence. The present applicant's involvement in the other FIR No. 191/2022 demonstrating the same *modus operandi* as in the present case placing reliance on documents alleged to be executed by Mohd. Shafiq who passed away on 13.05.2019 also *prima facie* points towards a deep-rooted conspiracy involving creation of forged documents, as alleged by the prosecution.

14. The applicant is admittedly a builder by profession and is assumed to know nuances with regard to documents relating to ownership/transfer of property. In the present case, the fact that Mohd. Shafiq (the person alleged to have sold the property to co-accused Mohd. Rehman) is also the same person



who allegedly sold the property in question to the present applicant in FIR no. 191/2022, cannot be a mere co-incidence. The same is fortified from the fact that co-accused Mohd. Rehman from whom the present applicant has allegedly bought the property is also a witness to the gift deed executed by the present applicant in favour of his wife with respect to property which is subject matter of FIR no. 191/2022.

15. In totality of the facts and circumstances of the case, the present application is dismissed.

16. The interim bail granted to the applicant *vide* order dated 07.08.2023 read with 08.08.2023 was subsequently extended from time to time. On 04.10.2023, this Court recorded that the applicant had undergone the surgery on 20.09.2023 and was discharged on 25.09.2023. As per the status report dated 06.10.2023 received alongwith a response from the concerned doctor, it was noted that if the patient requires follow up, the same can be done at Deen Dayal Upadhyay Hospital, AIIMS, Dr. RML Hospital, Lok Nayak Hospital etc as well. Learned counsel for the applicant, on 04.10.2023 had further stated that the present applicant has developed some infection in his chest, post-surgery for which he had been advised best rest for next 07 days, and accordingly, interim bail was extended till the next date of hearing. The purpose of the interim bail has been fulfilled, the applicant stands discharged and in view of the status report dated 06.10.2023, no ground for extension of interim bail granted to the applicant *vide* order dated 07.08.2023 read with 08.08.2023 is made out. The applicant is directed to surrender before the concerned Jail Authorities tomorrow, i.e., on 21.10.2023.

17. The application is dismissed and disposed of accordingly.



18. Pending applications, if any, also stand disposed of.
19. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and is only for the purpose of the present application.
20. Copy of the judgment be sent to the concerned Jail Superintendent for necessary information and compliance.
21. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
JUDGE

OCTOBER 20, 2023/bsr