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

\+ **BAIL APPLN. 283/2023, CRL.M.(BAIL) 135/2023 & CRL.M.A. 4469/2024**

SUKHDEV SINGH ..... Applicant

Through: Adv. Binod K. Agrawal & Adv. Ujjwal Agrawal.

versus

STATE NCT OF DELHI ..... Respondent

Through: Mr. Pradeep Gahalot, APP for the State along with Sukhvir Singh Malik, Adv.
SI B.K. Bharti, PS Najafgarh.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

<u>O R D E R</u>

% **29.04.2024**

1. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 seeking pre-arrest bail in FIR No. 519/2022 dated 10.09.2022 registered at Police Station Najafgarh, for offence under Section 420 of the Indian Penal Code, 1860 ('**IPC**').

2. It is pointed out that the applicant was granted interim protection by this Court by order dated 31.01.2023 and he has since joined investigation.

3. From the status report filed, it appears that the property was purchased by the applicant by a registered Sale Deed dated 08.12.2015. The applicant thereafter on 19.01.2017 mortgaged 50 square yards of the property to the Kangra Cooperative Bank Limited. It is alleged that one person, namely, Naresh had taken possession of the property from Krishna Devi pursuant to the

General Power of Attorney dated 23.03.2019.

4. It is alleged that the Naresh pursuant to an execution of another General Power of Attorney dated 27.07.2020 had given the possession of the 50 square yards of the property to one person namely, Sunita, who thereafter transferred the possession and the rights in the property to the complainant/Veermati by executing a General Power of Attorney dated 25.02.2021.

5. It is further alleged that applicant had also executed one General Power of Attorney dated 27.11.2021 in favour of the complainant Veermati.

6. The learned counsel for the applicant submits that it is apparent that the property was transferred to Veermati by one person, namely, Sunita. He further submits that the property was purchased by a registered sale deed and no party had any right to sell the property by executing a General Power of Attorney. He further submits that no party has filed any other case in relation to claim over the property. No civil suit has been filed in that regard.

7. It is not disputed that the applicant has joined investigation. As per the statutory provisions, the maximum sentence for the offence punishable under Section 420 of the IPC is seven years. The evidence in the present case is documentary in nature, which is not disputed to be in possession of the State.

8. It is alleged that the property was transferred to Naresh by Krishna Devi, who also happens to be the mother of the applicant in the year 2019 and the applicant was aware of the same being transferred even though the property had already been mortgaged.

9. The learned counsel for the applicant has stated that only the limited rights that were available to the applicant after the

property being mortgaged were transferred in favour of subsequent transferees by executing General Power of Attorneys. He submits that even though possession of the property was handed over to Naresh by mother of the applicant by executing a General Power of Attorney, the same by no stretch of imagination could be termed as sale of the property once the property had already been sold by virtue of the registered sale deed to the applicant.

10. The allegations and defences in this regard are a matter of the trial.

11. It is not in doubt that order for grant of bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

12. The purpose of custodial interrogation is to aid the investigation and is not punitive. From the perusal of the Status Report, it appears that the investigation is complete to a large extent and does not require the applicant to be in custodial interrogation for the purpose of Investigating Agency to complete the remaining investigation, if any.

13. In view of the above, the applicant, in the event of arrest, is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000 with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

a. The applicant shall join and cooperate with the investigation as and when directed by the concerned

Investigating Officer;

b. The applicant shall appear before the learned Trial Court as and when directed;

c. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;

d. The applicant shall give his mobile number to the concerned Investigating Officer and shall keep it switched on at all times. The applicant shall also inform the Investigating Officer about any change in their contact details;

e. The applicant shall not leave the Country without the permission of the learned Trial Court.

14. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the trial. The said observations should not be taken as an expression of opinion on the merits of the cases.

15. In the event the applicant is found to be violating any of the conditions as stated above, the State is at liberty to seek redressal by filing an application seeking cancellation of bail.

16. The present application is allowed in the aforesaid terms.

17. Pending applications also stand disposed of.

AMIT MAHAJAN, J

APRIL 29, 2024
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