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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 412/2024**
BISHAMBER DAYAL GUPTA

..... Petitioner

Through: Mr.R.N. Dubey & Mr.Tarun
Garg, Advs.

versus

STATE GOVT. OF NCT OF DELHI

..... Respondent

Through: Ms.Priyanka Dalal, APP.
SI Sanjay Yadav, PS Jyoti
Nagar.
Mr.M. Mukul & Mr.Anupam
Vashisth, Advs. for
Complainant.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **05.02.2024**

CRL.M.A. 3556/2024 (Exemption)

1. Allowed, subject to all just exceptions.

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2. This application has been filed under Section 438 of the Code of Criminal Procedure, 1973 (in short, 'CrPC') seeking anticipatory bail in FIR No. 252/2022 registered with Police Station: Jyoti Nagar under Sections 420/467/468/471/34 of the Indian Penal Code, 1860 (in short, 'IPC').

3. Issue notice.

4. Notice is accepted by Ms.Priyanka Dalal, learned APP on behalf of the State, and Mr.M. Mukul, learned counsel on behalf of the



complainant.

5. It is the case of the prosecution that on the basis of certain forged documents, the applicant herein has first claimed title to the property, being C-131, Amar Colony located in *Khasra* No. 423, Village Saboli, East Gokalpur, Harijan Basti, Illawa, Shahdara, Delhi, and later sold it to one Sh. Raj Kumar. It is stated that the said property belongs to the parents of the complainant-Sh. Neeraj Rathi. There is a dispute regarding the partition of the said property between the complainant and his brother Sh. Vikas Rathi. The applicant herein allegedly stood witness to one General Power of Attorney executed by one Sh. Hori Lal in favour of Sh. Yogesh Kumar for the said property. Later Sh. Yogesh Kumar sold a 33% share of the suit property jointly to the applicant along with one Sh. Raj Kumar, and 66% to one lady Smt. Pinki, who is also yet to join the investigation.

6. It is alleged that though the applicant has joined the investigation twice, still he is not helping in the same inasmuch as he is not producing the documents on the basis of which he claims the title to the suit property. It is stated that with respect to the same property, another FIR, that is, FIR No. 291/2021, has also been registered at the same Police Station under Sections 323/341/506/34 of the IPC. It is further stated that there are other cases also pending against the applicant, where the applicant has adopted the same *modus operandi* and FIRs have been lodged against him accusing him of land grabbing.

7. On the other hand, the learned counsel for the applicant submits that a civil dispute is being given a colour of a criminal offence by the



complainant. He submits that the dispute between the parties is one of difference in the *Khasra* Number on which both claim the property to be situated. He submits that Delhi Development Authority, by a Conveyance Deed dated 08.09.2021, has transferred 87.79 sq. mtr. (105 sq. yards) of the property in question in favour of Sh. Hori Lal and ultimately to Sh. Yogesh Kumar, claiming it to be situated at *Khasra* No. 796. Placing reliance on the judgment of the Supreme Court in *Anand Kumar Mohatta v. State (Govt. of NCT of Delhi)*, (2019) 11 SCC 706; and on the order dated 18.12.2023 of this Court in *Sanket Bhadresh Modi v. Central Bureau of Investigation & Anr.*, he submits that the applicant cannot be prosecuted for a civil dispute and is entitled to be granted anticipatory bail.

8. He submits that the petitioner has cooperated in the investigation and produced the documents that were in his possession.

9. He further submits that the property is presently in occupation of Sh. Raj Kumar, however, the prosecution is not proceeding against him for its own reasons.

10. I have considered the submissions made by the learned counsels for the parties.

11. As appears from the submission of the learned counsel for the applicant, the applicant claims that the property in question stands on *Khasra* no. 796 of the Revenue Estate of Village Gokalpur East. However, as per the IO, who is present in person in the Court, the applicant has, in spite of repeated calls, not produced the chain of documents which would support the claim of the applicant to the said property.



12. The learned APP points out that proceedings under Section 82 of CrPC have also been initiated against the applicant.

13. The prosecution also submits that as far as the applicant is concerned, even Sh. Hori Lal from whom the chain of documents starts, as the applicant had stood witness to the GPA in favour of Shri Hori Lal, is also not traceable.

14. As the investigation is at crucial stage and the applicant is yet to produce the complete chain of his title in spite of demand from the IO; and Shri Hori Lal is also not traced, I find no merit in the present application.

15. The same is dismissed.

NAVIN CHAWLA, J

FEBRUARY 5, 2024/rv/am

[Click here to check corrigendum, if any](#)