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

% ***Reserved on: 08.02.2024***
Pronounced on: 14.02.2024

\+ **<u>BAIL APPLN. 449/2024</u>**

NIKHIL JAIN ..... Petitioner

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva & Ms. Srishti Bajpai, Advocates.

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr. Manoj Pant, APP for State with SI Prashant Vihar, Delhi

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

<u>JUDGMENT</u>

<u>SWARANA KANTA SHARMA, J.</u>

1. The present application under Section 438 of the Code of Criminal Procedure, 1973 (*'Cr.P.C.'*) has been filed on behalf of the applicant seeking grant of anticipatory bail in case FIR No. 477/2023, registered at Police Station Prashant Vihar, Rohini, Delhi, for offences punishable under Sections 420/467/468/471/120B/34 of the Indian Penal Code, 1860 (*'IPC'*).

2. The present FIR was registered on the basis of complaint lodged by Sh. Tilak Raj Jain against ten accused persons. Brief facts of the case, as per the FIR, are that the complainant was well

acquainted with co-accused Sushil Singla, who was a Chartered Accountant, as well as the present applicant Nikhil Jain, who was known to the complainant for last 10 to 15 years, and further that these accused persons were also closely known to each other since long. It was alleged that somewhere in May/June, 2021, co-accused Sushil Singla had approached the complainant with a lucrative offer to buy a property bearing number 21, Block E, Prashant Vihar, Delhi, ad-measuring 120 square meter, through the present applicant Nikhil Jain. As alleged, the complainant was informed by co-accused Sushil that the present applicant was in process of getting the said property converted to freehold from DDA and after the completion of this process, the complainant can purchase the property in question. It is stated that the complainant had also been informed by co-accused Sushil that he had to receive some amount from the present applicant and if the complainant purchased the property, the amount paid by the complainant to the applicant herein would be adjusted in the amount to be recovered by Sushil from the present applicant. It is stated that the property in question had become freehold *vide* conveyance deed dated 27.08.2021 issued by DDA in favour of co-accused Manjeet Singh, and thereafter, the present applicant had purchased the property in his name on 14.10.2021 through a sale deed, and accused no. 3 and 4 namely Kuldeep and Saajan had stood witness to the said sale deed. Thereafter, the present applicant had sold the property in question to the complainant by way of a sale deed dated 28.10.2021 for a consideration of Rs.1,32,00,000/-, besides certain cash amount, which was also paid to the present applicant. It is stated that the compliment wanted to sell the property in question in September 2023, however, upon inquiring about the property from some property dealers, he had come to know that the conveyance deed which had been executed in favour of co-accused Manjeet Singh was a forged and fabricated document, which was not available in the records of DDA, and the complainant had been defrauded and cheated by co-accused Suhil and the present applicant Nikhil Jain, in active connivance and collusion with each other. It is also stated that accused no. 6 and 7 i.e. Vijay Kumar and Surinder Singh had stood witness to the forged and fabricated conveyance deed, also in connivance with present applicant. It is further alleged that when the complainant had confronted the accused persons, they had laughed upon him and the present applicant had informed the complainant that since he had been declared NPA by the banks and was in urgent need of money, he had hatched conspiracy with co-accused persons to cheat and defraud the complainant. The complaint had further alleged that he had also come to know from his sources that co-accused Manjeet Singh and the witnesses to the conveyance deed as well as the sale deeds were also the close associates of present accused/applicant. It is also alleged that the officials of DDA namely Dilshad Ahmed and Sachin had helped and actively participated in commission of the offence and they were also responsible for preparation of forged and fabricated conveyance deed since they were officials of DDA. It is further stated that upon inquiry, the complainant had also come to know that the property in question had neither been allotted to anybody nor had ever been auctioned to any person, and the entire chain of documents prepared by the accused persons were forged and fabricated. On these allegations, the present FIR was registered.

3. Learned counsel appearing on behalf of the present accused/applicant argues that the applicant has been falsely implicated in the present case and a holistic reading of the FIR in question would reflect that there are no allegations regarding any forgery being committed by the applicant. It is argued that a property broker in 2021 had proposed the property in question, as a freehold property, for sale to the applicant and it was informed that the title of the property was clear. It is stated that the applicant was further explained that this was a DDA allotted property and after original allottee, the property had come in the hands of one Manjeet Singh, who had then got registered the conveyance deed of the property in his name from the DDA. It is submitted that the applicant had purchased the property in question for a sum of Rs. 1.2 crores (approximately) from co-accused Manjeet Singh and thereafter, since the complainant had shown interest to purchase this property, the applicant herein had sold the same to the complainant *vide* registered sale deed dated 28.10.2021. It is further argued that the co-accused Manjeet Singh has played fraud and has cheated the applicant herein, who is victim no. 1 of this forgery and the complainant is victim no. 2. On these grounds, it is prayed that the present applicant be granted anticipatory bail

4. *Per contra*, learned APP for the State argues that Non-Bailable Warrants have already been issued against the accused by the learned

Trial Court. It is stated that the accused has not approached the learned Trial Court for grant of anticipatory bail. It is argued that the property in question was purchased by the applicant on 14.10.2021 and was sold on 28.10.2021 to the complainant i.e. within 14 days. It is further pointed out that as per the statement and records of DDA, the document i.e. conveyance deed has been found to be forged and on the strength of such forged documents, the plot had been sold to the complainant. It is further submitted that the accused has failed to join investigation, and his custodial interrogation is required since it is a case of forgery and cheating the complainant. Therefore, it is prayed that the present bail application be dismissed.

5. This Court has heard arguments addressed by learned counsel for the applicant and learned APP for the State, and has gone through the material on record.

6. In the present case, the complainant has alleged that co-accused Sushil Singla, who was a Chartered Accountant by profession, had approached the complainant somewhere in May/June, 2021, on behalf of the present applicant Nikhil Jain, with a lucrative offer for sale of property in question, and the complainant was also informed that the present applicant was in process of getting the property freehold from DDA, after which, the complainant would be in a position to purchase the same. It is further alleged that in connivance and conspiracy with other accused persons, the property was allegedly got freehold from DDA by co-accused Manjeet Singh *vide* conveyance deed dated 27.08.2021, and thereafter, the present applicant had purchased the property in question by way of a sale

deed dated 14.10.2021 from co-accused Manjeet Singh, and immediately thereafter, he had sold the said property to the complainant by virtue of sale deed dated 28.10.2021, and the complainant had purchased the same without doubting the ill intentions of the accused persons. However, it is alleged that in September 2023, the complainant had come to know that the conveyance deed dated 27.08.2021, which had been executed in favour of co-accused Manjeet Singh by DDA, was a forged and fabricated document and no such document was available in the records of DDA. Thus, it is the case of the complainant that it was the present accused/applicant Nikhil Jain, who in conspiracy with co-accused Sushil Singla and Manjeet Singh, had got a forged and fabricated conveyance deed prepared and thereafter sale deeds dated 14.10.2021 and 28.10.2021 had been executed on the strength of such false and fabricated documents in order to cheat and defraud the complainant.

7. One of the main arguments raised on behalf of the applicant is that he is himself a victim of forgery committed by co-accused Manjeet Singh and that the applicant was not aware about the conveyance deed being forged or fabricated. The applicant herein has nowhere disputed the fact that the conveyance deed dated 27.08.2021 is forged and fabricated, since it is his case that he is himself a victim of such forgery. As far as this argument is concerned, this Court, at this stage, has to look into the allegations levelled against the accused persons by the complainant, wherein it has been specifically stated that co-accused Sushil Singla had approached the complainant in the

month of May/June, 2021, which is a few months prior to execution of forged and fabricated conveyance deed, and co-accused Sushil had represented to the complainant that the present accused/applicant was involved in the process of getting the property converted to freehold, after which the same would be sold to the complainant.

8. The complainant has also alleged that upon confronting the accused persons, the applicant herein had told the complainant that since he had been declared NPA by the banks and was an urgent need of money, he had hatched the present conspiracy with co-accused persons in order to cheat and defraud the complainant. Further, it has also been alleged by the complainant that upon inquiry, he had come to know that the property in question had never been allotted to anyone, and thus, even the documents created in favour of one Devendra Kumar, who had allegedly acquired the leasehold rights of the property somewhere around the year 1988-1990, are also forged in fabricated.

9. As far as reliance placed on order passed by the learned Sessions Court, granting bail to co-accused Sushil Singla is concerned, this Court is of the opinion that the present applicant cannot seek parity since the said co-accused was granted regular bail by the learned Sessions Court, *inter alia*, on the ground that the matter had been settled between the complainant and the co-accused and the co-accused's wife had paid an amount of Rs. 20 lakhs to the complainant.

10. For the sale of property in question, the complainant had paid amount of Rs.1,32,00,000/- to the present applicant. The sequence of

events, as *prime facie* appearing from the contents of FIR and the gap between the sale deeds executed between co-accused Manjeet Singh and the applicant Nikhil Jain, and the sale deed executed between present applicant Nikhil Jain and the complainant is also crucial.

11. Thus, considering the fact that the applicant has yet not joined investigation and non-bailable warrants have already been issued against him, and in view of the serious allegations pertaining to cheating and forgery against the present applicant, and also the fact that investigation is at initial stage, this Court does not find it a fit case for grant of anticipatory bail to the present applicant, whose custodial interrogation may also be necessary to unearth the entire conspiracy as well as the details *qua* preparation of alleged forged and fabricated documents.

12. In view thereof, the present application stands dismissed.

13. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 14, 2024/*ns*