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

+ **BAIL APPLN. 848/2024 & CRL.M.A. 7473/2024**

SIKANDAR KHURSHID

.....Petitioner

Through: Mr. Zahid Hanief, Advocate.

versus

STATE NCT. OF DELHI & ANR.

.....Respondents

Through: Ms. Richa Dhawan, APP along with
Anuj Chaturvedi, Advocate with SI
Manish Phogat, PS- Mehrauli.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

07.10.2024

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1. The instant application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter as the “BNSS”) has been filed on behalf of the petitioner/applicant seeking the grant of anticipatory bail in the FIR bearing no. 0526/2022 dated 23rd August, 2022 registered at PS- Mehrauli, under Sections 420/406/506 of the Indian Penal Code, 1860.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner herein is an innocent person and has not committed any offence as alleged in the aforesaid FIR.

3. It is submitted that the petitioner herein is the Managing Director of a private company, M/s Al-Mehmood Builders Limited, which primarily deals with the construction work as a developer of the properties.

4. It is further submitted that in the year 2019, the respondent no. 2 had



pre-booked a flat with the petitioner at the cost of Rs. 24 Lakhs.

5. It is further submitted that after the completion of the construction of the flat, the petitioner offered the possession of the said flat to the respondent no. 2, however, the respondent no. 2 refused to take possession of the said flat. It is submitted that since the respondent no. 2 refused to take the said possession, the petitioner, after intimating the respondent no. 2, sold the flat to another interested buyer.

6. It is submitted that the allegations made in the aforesaid FIR are false and prerogative as the contents therein falsely state that the petitioner refused to give possession of the flat to the respondent no. 2. It is further submitted that the petitioner has been cooperative in assisting the investigation and has also appeared before the investigating agency in compliance with Section 41A of the Code of Criminal Procedure, 1973.

7. Learned counsel appearing on behalf of the petitioner also apprised the Court that the dispute between the parties has been already settled *vide* settlement agreement dated 7th October, 2024 and the same is annexed at page no. 92 of the instant petition. It is further submitted that the applicant/petitioner herein undertakes to abide by any condition imposed by this Court while granting the relief of anticipatory bail.

8. *Per contra*, learned counsel appearing on behalf of the respondent no. 1/complainant vehemently contradicted the submissions advanced by the learned counsel for the petitioner, submitting to the effect that the petitioner herein has not offered the possession of the flat to the respondent no. 1, upon completion of the flat.

9. It is submitted that the said flat was sold to a third party by the petitioner/applicant for a consideration of Rs. 40 Lakhs and in view of the



same, the petitioner issued 8 cheques bearing an amount of Rs. 5 Lakhs each, which were later dishonoured.

10. Learned counsel appearing on behalf of the respondent at last submitted that since the dispute has already been settled between the parties *vide* settlement agreement and that the petitioner undertakes to abide by all the terms and conditions of the settlement agreement, he has no objection for the release of the petitioner on anticipatory bail.

11. Learned APP appearing on behalf of the State submitted that since the petitioner is cooperating with the investigation and the dispute has already been settled between the parties, the investigating agency has no objection if the Court feels fit to grant anticipatory bail to the applicant/ petitioner and refrain the investigating agency to take custody of the applicant.

12. Heard learned counsel for the parties and perused the contents of the instant petition.

13. Keeping in view the contentions and the arguments advanced by the learned counsel for the parties, this Court is inclined to grant protection to the applicant/ petitioner in the event if arrest.

14. It is directed that in the event of arrest, the applicant be released on anticipatory bail on furnishing a personal bond in the sum of **Rs.50,000/-** (Rupees Fifty Thousand only) with solvent surety of like amount to the satisfaction of the Investigating Officer subject to the following conditions:-

- a) he shall surrender his passport, if any, to the Investigating Officer and shall under no circumstances leave India without prior permission of the Court concerned;
- b) he shall cooperate in the investigation and appear before



the Investigating Officer of the case as and when required;

- c) he shall remain present before the jurisdictional police station on **Second and Fourth Saturday** of every calendar month for the period of two months or till filing of the final report, whichever is earlier;
- d) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- e) he shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times; and
- f) In case of change of residential address and/or mobile number, the same shall be intimated to the Investigating Officer/Court concerned by way of an affidavit.

15. With the aforesaid directions, the bail application stands disposed of.

CHANDRA DHARI SINGH, J

OCTOBER 7, 2024

RK/MK

Click here to check corrigendum, if any