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

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Date of Decision : 01.04.2024

+ **BAIL APPLN. 1097/2024**

MANJU BALA

..... Petitioner

Through: Mr. Vipin Sehrawat and Mr.
Manoj Godara, Advocates

versus

STATE (N.C.T. OF DELHI)

..... Respondent

Through: Mr. Manoj Pant, APP for the
State with Inspector Davender
Singh, P.S. Jaffarpur Kalan.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J (ORAL)

CRL.M.A. 9662/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 1097/2024

3. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C') has been filed on behalf of petitioner seeking grant of anticipatory bail in case FIR bearing no.158/2022, registered at Police Station Jaffarpur Kalan, Dwarka,



Delhi for offence punishable under Section 420 of Indian Penal Code, 1860 ('IPC').

4. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of State.

5. Brief facts of the present case are that a complaint was lodged by complainant Dharmabir Singh alleging therein that he had met accused Naresh Yadav through his common friends in 2016 when the complainant was in search of a plot in Delhi for investment purposes and had discussed the same with Naresh Yadav, who had insisted that they should purchase his plot. On his advice and continuous pursuance, the complainant had purchased 100 sq. yards out of 200 sq. yard plot for a sale consideration amount of Rs. 15 lakhs on 16.05.2017, on the same day, a GPA, Sale Deed, Will, Receipt and possession letter had been executed by the present applicant/accused i.e., Mrs Manju Bala (wife of co-accused/Naresh Yadav), in favour of the complainant. Thereafter, accused Naresh Yadav had again taken a sum of Rs. 17,78,000/- as a friendly loan on 08.06.2017 and had assured the complainant that he would return the same in two instalments on 05.03.2018 and 15.03.2018. In case, he will not be able to return the amount, he will execute the papers in his favour of remaining 100 sq. yards of above plot. In July, 2018, when the complainant had asked co-accused/Naresh Yadav to return the loan amount, he had kept on asking for more time on one pretext or the other and had not returned the money. Later on, the complainant had come to know that co-accused/Naresh Yadav and his wife i.e., the



present accused/applicant with mala fide and dishonest intention had sold a portion of 100 sq. yards out of the said plot bearing Khasra No.170/ 1 situated in Dabar Enclave Plot no. 30 to some other person. The complainant had visited the said plot and came to know that the 100 sq. yards sold to the complainant through GPA, Sale Deed, Will, Receipt and possession letter dated 16.05.2017 were also sold to another person by co-accused/Naresh Yadav and his wife (i.e, the present applicant/accused) and the same was in possession of another person by preparing forged and fabricated documents. After that, the co-accused/Naresh Yadav and the present applicant/accused with mala fide and dishonest intention had hatched a conspiracy to cheat the complainant to the tune of Rs. 32,78,000/-. Therefore, the present FIR was registered after the filing of a complaint under Section 156(3) of Cr.P.C by the complainant.

6. Learned Counsel appearing on behalf of the applicant/accused submits that the present FIR bearing No. 158/2022 was registered on 22.07.2022 and on 29.02.2024 the present applicant/accused had filed the bail application before the learned Trial Court seeking protection from arrest. It is stated that the said protection had been granted to the present applicant/accused as there was a substantial lapse of time since the filing of the FIR and the willingness of the applicant to cooperate with the investigation. It is further submitted that the present applicant was directed to join the investigation as and when called upon by the Investigating Officer ('IO'). However, the present applicant/accused had failed to join the investigation according to



notices served under Section 41 A Cr.P.C and due to the same anticipatory bail granted was rejected and dismissed by the learned Trial Court.

7. Learned Counsel appearing on behalf of the applicant/accused further submits that the complainant in this case has passed away and that the applicant is ready to join the investigation. It is stated that since the investigation pertains to documents custodial interrogation of the applicant is not required and that any stringent conditions be applied will granting bail to the applicant as she undertakes to cooperate with the investigation as and when called by the IO. Therefore, it is prayed that the applicant/accused be enlarged on anticipatory bail as prayed for.

8. Learned APP for the State on the other hand, opposes the present anticipatory bail application and submits that it is the case of the prosecution that during the course of investigation, it has been revealed, that the complainant has unfortunately passed away on 14.12.2022. It is also the case of the prosecution that the present applicant did not join the investigation despite service of notice under Section 41A of Cr.P.C. It is further submitted by the learned APP for the State that the accused persons have cheated the complainant to the tune of Rs. 32,78,000/- and the genuineness of the documents are yet to be verified. It is also to be ascertained that as to how many persons have been cheated by the present applicant/accused and the co-accused persons as the present case is a multiple victim case and, therefore, her custodial interrogation is required.



9. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused the material on record.

10. After hearing arguments and going through the case file, this Court is of the opinion the investigation reveals that the present accused/applicant has not joined the investigation and the investigation carried out so far also reveals that the present accused/applicant had sold the plot in question on 16.05.2017 to one Dharambir Singh i.e., the complainant herein who has unfortunately passed away in the year 2022. However, the same plot was sold to one Deepak Kumar on 23.06.2018. The co-accused person is the husband of the present accused/applicant who is the witness in both the documents executed for selling the same property to two different persons. It appears from the records that the present applicant/accused along with her husband not only have prima facie cheated the complainant by selling the same plot for which they had taken consideration amount from the complainant to another person i.e. Deepak Kumar but had also taken a friendly loan of Rs. 17,78,000/- from the complainant on the assurance that in case they will not be able to repay the loan, they will sell the remaining 100 sq. yards of the plot land to the complainant. However, the present applicant/accused had sold the entire 200 sq. yards of plot to some other person. In such circumstances, there is force in the contention of the prosecution that custodial interrogation of the accused will be required for the purpose of obtaining specimen signatures and also to



find out as to whether they have cheated other persons by the same modus operandi.

11. Considering the above facts and circumstances and the fact that despite service of notice under Section 41A of Cr.P.C. and despite the learned Trial Court taking a lenient view and granting no coercive steps to be taken against the present applicant/accused, the applicant/accused herein has failed to join the investigation, thus, no ground for grant of anticipatory bail is made out at this stage.

12. In view of the above, the present application stands dismissed.

13. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 1, 2024/zp