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

+ **BAIL APPLN. 1177/2024**

RAGHAV KALRA THROUGH PAIROKAR Petitioner

Through: Mr. Vijay Agarwal, Mr. R.K. Gossain, Mr. Hardik Sharma, Mr. Mukul Malik, Mr. Pankush, Mr. Kshitiz Garg and Ms. Barkha Rastogi, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Richa Dhawan, APP for State with Insp. Randheer Kumar Ravi, PS: Civil Lines. Mr. Ashutosh Gupta, Advocate for complainant.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.05.2024

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CRL.M.A. 10340/2024 (exemption)

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

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3. This bail application has been preferred under Section 439 Cr.P.C. read with Section 482 Cr.P.C. on behalf of the applicant Raghav Kalra S/o Sh. Sunil Kalra seeking grant of regular bail in case FIR No.57/2020 dated 20.03.2020 under Sections 420/34 IPC registered at PS: Civil Lines. Subsequently, Sections 467/468/471/120B/174A IPC were added in the Charge Sheet.



4. Status Report has been filed on behalf of the State. Case of the prosecution is that the present FIR was registered on the complaint of one Mukesh Lamba, who alleged that in the year 2015, he came in contact with Renu Kalra and her son Raghav Kalra (applicant), who came to his residence and informed him that Ridhi Kalra, daughter of Renu Kalra and sister of the applicant, was the absolute owner and in lawful possession of commercial property ad-measuring 9.3 sq. mtrs. bearing Shop No. 04 on the ground floor of 16-UB, Bungalow Road, Jawahar Nagar, Kamla Nagar, Delhi-110007 (hereinafter referred to as 'Shop No.4'). They further informed that Sunil Kalra, husband of Renu Kalra was the absolute owner and in lawful possession of commercial property ad-measuring 9.3 sq. mtrs. bearing Shop No. 06 on the ground floor of 16-UB, Bungalow Road, Jawahar Nagar, Kamla Nagar, Delhi-110007 (hereinafter referred to as 'Shop No.6'). Both the shops were stated to be rented out to Kotak Mahindra Bank ATM and Chowringee Enterprises, respectively. Complainant was informed that Ridhi Kalra and Sunil Kalra had executed duly registered General Power of Attorneys (GPAs) dated 06.10.2015 and 14.10.2015 in favour of the applicant and both the shops were free from all encumbrances and no sale agreement had been executed with any third party. Complainant was assured that the shops would fetch good rental income in case he purchased the same.

5. Complainant further alleged that believing the accused persons, he and his wife Santosh Lamba entered into transactions for purchasing the two shops for a consideration of Rs.13,50,000/- for Shop No. 4 and Rs.10,10,000/- for Shop No. 6 respectively. In furtherance of the transactions, applicant executed a registered sale deed on 16.10.2015 in



favour of Santosh Lamba with respect to Shop No.6 and on 09.10.2015 in respect of Shop No.4. Possession was taken over by the complainant and the tenants continued in the premises. Subsequently, a call was received by the complainant from the officer of Kotak Mahindra Bank Ltd. that a visitor was claiming to be the owner of Shop No.4 basis a registered sale deed in his favour and was requesting the bank to transfer the rental income to his account. Likewise, Harbir Singh, tenant of Shop No.6 also informed the complainant that a person purporting to be the owner of Shop No. 6 was in possession of a registered sale deed in respect of the shop and was demanding the rental income. Further inquiry revealed that the applicant and other co-accused persons, in furtherance of their common intention, hatched a criminal conspiracy with unknown persons and entered into agreements to sell with the complainant and his wife forging documents for the said purpose and with the knowledge that Shop No.4 had been sold to Niharika Jain and Harsh Gupta for a consideration of Rs.25,00,000/- and Shop No.6 to Vijender Ahuja, Rajesh Ahuja and Shiv Arora for a consideration of Rs.20,00,000/-. It was also discovered that they had executed another agreement to sell with one Meenakshi Dabla. Compelled by these circumstances, complainant lodged a complaint upon which the FIR was registered and investigation was initiated.

6. It is stated in the Status Report that during the course of investigation, statements of all complainants/victims and witnesses were recorded under Section 161 Cr.P.C. Niharika Jain and Harsh Gupta as well as Virender Ahuja, Rajesh Ahuja, Shiv Arora and Meenakshi Dabla were examined. Documents submitted by the victims have been taken into police custody through seizure memos and all the victims have levelled serious allegations



against the applicant and the co-accused of cheating, breach of trust and criminal conspiracy etc.

7. It is stated that during investigation, the documents were verified from the office of Sub-Registrar-I, District Central, Old Court Building, Kashmere Gate, Delhi-06 and investigation revealed that sale deed with respect to Shop No.4 was executed by the applicant in favour of the complainant and was registered on 19.01.2016 whereas on 24.08.2018, applicant again executed a sale deed in favour of Niharika Jain and Harsh Gupta for the same shop on the basis of a forged sale deed dated 23.04.2016, executed between Sunil Kalra and the applicant. In respect of Shop No.6, investigation revealed that applicant had executed a sale deed in favour of Santosh Lamba, which was registered on 19.01.2016 and thereafter, he executed another sale deed in favour of Vijender Ahuja, Rajesh Ahuja and Shiv Arora, which was registered on 12.07.2018 on the basis of a forged gift deed dated 15.11.2017, executed between Sunil Kalra and the applicant. Third time, another sale deed was executed by applicant and Renu Kalra in favour of Meenakshi Dabla on the basis of this forged gift deed dated 15.11.2017 and the sale deed was registered on 23.08.2018. Applicant and Renu Kalra were declared Proclaimed Offenders on 09.02.2022 but were later arrested on 15.09.2023 and 20.09.2023, respectively. It is stated that present case involves multiple victims, who have been cheated, duped and frauded. Accused persons have taken huge sums of money amounting to over Rs.1.70 crores from the victims by cheating them and fraudulently selling the two shops in question.

8. It is further stated that the applicant along with Renu Kalra has prepared forged chain of documents with the help of co-accused Subhash



Sharma, who is also alleged to have impersonated as Sunil Kalra and is absconding. He has been declared as a Proclaimed Offender on 05.03.2024 by the Trial Court. Efforts are being made to arrest him. Investigation is going on to unearth further chain of documents and the possibility of more victims being involved cannot be ruled out.

9. It is brought forth that Charge Sheet has been filed against the applicant and Renu Kalra. Applicant is involved in 5 other cases where FIRs have been registered under similar provisions i.e. Sections 420/467/468/471 IPC etc. Bail is opposed on the ground that the applicant is an influential person and there is high probability that he may win over witnesses by intimidating, threatening or inducing them. The allegations are serious and release of the applicant on bail will also hamper further investigation.

10. Mr. Vijay Aggarwal, learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. FIR has been registered on false allegations and suppression of material facts by the complainant and at his instance, under Section 156(3) Cr.P.C., complainant has falsely stated that he came in contact with the applicant and his mother in 2015 through some common acquaintance, whereas the fact is that the families were known to each other since 2014 and often met on social gatherings. Complainant had financial transactions with the applicant's family. In April, 2015, applicant had availed a loan of Rs.15 lacs on interest at the rate of 24% p.a. from the complainant which was disbursed by way of two cheques bearing Nos. 230101 and 230102, both dated 25.04.2015 for Rs.8 lacs and Rs.7 lacs, respectively. These cheques were given towards sale consideration of Shop No. 4 as noted in the sale deed dated 09.10.2015. As per the FIR, complainant agreed to purchase Shop No.



4 for a consideration of Rs.13,50,000/-, which was stated to be paid, however, in his statement under Section 161 Cr.P.C. recorded on 10.06.2020, in his endeavour to conceal the loan transaction, he falsely stated that he had purchased the shop on 03.10.2015 for Rs.15,00,000/- and Shop No. 6 was purchased on 16.10.2015 in the name of his wife for Rs.10,10,000/-. The two cheques were issued in furtherance of the money borrowed by the applicant from the complainant as a friendly loan.

11. It is further argued that on 01.05.2015, Renu Kalra obtained a loan of Rs.30 lacs on interest @ 24% p.a. through Cheques bearing Nos. 364003 dated 29.04.2015, 364004 dated 30.04.2015 and 364005 dated 01.05.2015 of Rs.10 lacs each from the complainant, mortgaging Shop No. 4 as a collateral security. In fact, complainant in his supplementary statement recorded on 02.09.2021 i.e. after more than two years from the date of the complaint, admitted having given loan of Rs.30 lacs through the 3 cheques. Renu Kalra had obtained a further loan of Rs.10 lacs from the complainant in May, 2015. Even as per the bank pass books/statements submitted by the complainant, the amounts have been shown as loans against the respective properties. The money in question was, therefore, not a sale consideration for sale of shops but were loans advanced by the complainant and on his insistence, the registered GPAs etc. were executed by the applicant.

12. It is further argued that substantial part of the borrowed money has been returned to the complainant and in August, 2018, applicant had approached the complainant to cancel the sale deeds, so that the shops could be sold. Complainant advised the applicant and Renu Kalra to go ahead with their plans of selling the shop to a third party assuming that the sale deeds were cancelled. Believing the complainant, applicant sold Shop No. 6 to



Vijender Ahuja and others and Shop No. 4 to Niharika Jain and Harsh Gupta. Later, however, complainant went back on his words and in his greed to make money, built a whole new story and lodged a false complaint. Looking at the circumstances, applicant and Renu Kalra started returning the money to the purchasers from 03.08.2018 onwards and on substantial payment being received, Niharika Jain and Harsh Gupta have withdrawn the Civil Suit bearing No. 1748/2020 filed by them.

13. It is contended that investigation is complete and Charge Sheet has been filed. Co-accused Sunil Kalra and Ridhi Kalra have been granted anticipatory bails by the Trial Court on 06.11.2020 and 22.09.2021, respectively. Basic rule of our criminal justice system is bail and not jail. Most of the evidence is documentary and judicial custody will achieve no purpose. Reliance is placed on the judgment of the Supreme Court in ***P. Chidambaram v. Directorate of Enforcement, (2020) 13 SCC 337***, to argue that at the stage of bail, an elaborate examination of evidence and detailed reasons touching upon the merit of the case, which may prejudice the accused, should be avoided. Reliance is also placed on the judgment of this Court in ***Amarendra Dhari Singh v. Directorate of Enforcement, 2021 SCC OnLine Del 3901*** for the same proposition. Mr. Aggarwal relies on the judgment of this Court in ***Raman Bhuraria v. Directorate of Enforcement, 2023 SCC Online Del 657***, where the Court observed that an applicant cannot be left to undergo long period of incarceration, where the investigating agency has a long list of witnesses and the investigation is ongoing. It is urged that applicant has deep roots in the society and lives with his family comprising of an aged father-in-law, wife and two children and there is no chance of his fleeing from justice. Complainants are not



prejudiced if applicant is released on bail, as they have received the allegedly cheated money and are also earning through the rentals of both the shops, which continue to be in their possession.

14. Learned APP appearing for the State, *per contra*, vehemently opposes the bail application. It is argued that applicant is an economic offender, who has cheated the complainant through a well-planned and orchestrated conspiracy. Investigations have revealed that this is a multi-victim scam and several other innocent persons have been duped and cheated of their hard-earned money. Applicant has along with the other co-accused persons adopted a *modus operandi* whereby the same properties have been sold to different persons by forging and fabricating the sale deeds and the gift deed. During investigation, property dealer namely, Ajay Kumar, who had witnessed the documents executed between the applicant and Meenakshi Dabla was examined and he corroborated the version of the victim and further stated that Subhash Sharma had impersonated himself as Sunil Kalra while executing documents related to Shop No. 6 and deliberately mentioned wrong property No. i.e. 6A instead of 6. Accused persons produced Rajesh Sharma purportedly a tenant, whereas actual tenant was Harbir Singh Chaddha, which fact Harbir Singh Chaddha has corroborated in his statement under Section 161 Cr.P.C. During investigation, notices were sent under Section 91 Cr.P.C. to Sub-Registrar's office, Kashmere Gate as well as the Assessment and Collection Department, North MCD and the transactions have been confirmed. Investigation is ongoing and many facets of the deep-rooted conspiracy are yet to be unearthed. Applicant is not an innocent person as claimed during arguments but has a propensity to commit crime and is involved in commission of offences of similar nature



involving cheating innocent people. He also has the tendency to flee from justice inasmuch as both Renu Kalra and the applicant were evading the process of law and were declared Proclaimed Offenders by the Trial Court, prior to their arrest. Matter is at a crucial stage and grant of bail would seriously hamper further investigation as there are high chances of the applicant tampering with evidence and intimidating/threatening the witnesses.

15. During the course of hearing, learned APP hands over a copy of an undertaking furnished by the applicant and Renu Kalra dated 10.05.2019, which also forms part of the charge sheet, which reflects that both had confessed that they had sold Shop No. 4 to Niharika Jain and Harsh Gupta and Shop No. 6 to Vijender Ahuja and others and had executed sale deeds for a consideration of Rs.25,00,000/- and Rs.20,00,000/-, respectively and undertook to cancel/revoke the sale documents. Document is taken on record. Counsel for the Complainant adopts the arguments made on behalf of the State and opposes the bail application with equal vehemence.

16. Heard learned counsels for the applicant and complainant and the learned APP for the State.

17. The undisputed facts are that applicant was declared as a Proclaimed Offender by the Trial Court on 09.02.2022 and upon being arrested on 15.09.2023, is in judicial custody since then. Charge Sheet has been filed but as per the prosecution, further investigation is ongoing as one of the accused is absconding and further chain of documents etc. have to be unearthed. Principles governing grant of bail have been laid down and reiterated and reaffirmed by the Supreme Court from time to time. In ***P. Chidambaram***



(*supra*), the judgment relied upon by the applicant, the Supreme Court once again elucidated the parameters and I quote:-

“21. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:

- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;*
- (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;*
- (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;*
- (iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;*
- (v) larger interest of the public or the State and similar other considerations.*

[Vide Prahlad Singh Bhati v. State (NCT of Delhi) [(2001) 4 SCC 280 : 2001 SCC (Cri) 674] .]

22. There is no hard-and-fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner. At this stage itself, it is necessary for us to indicate that we are unable to accept the contention of the learned Solicitor General that “flight risk” of economic offenders should be looked at as a national phenomenon and be dealt with in that manner merely because certain other offenders have flown out of the country. The same cannot, in our view, be put in a straitjacket formula so as to deny bail to the one who is before the court, due to the conduct of other offenders, if the person under consideration is otherwise entitled to bail on the merits of his own case. Hence, in our view, such consideration including as to “flight risk” is to be made on individual basis being uninfluenced by the unconnected cases, more so, when the personal liberty is involved.”

18. In **Anil Kumar Yadav v. State (NCT of Delhi) and Another, (2018) 12 SCC 129**, the Supreme Court observed as under:-

“17. While granting bail, the relevant considerations are : (i) nature of seriousness of the offence; (ii) character of the evidence and circumstances which are peculiar to the accused; and (iii) likelihood of the



accused fleeing from justice; (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and (v) likelihood of his tampering. No doubt, this list is not exhaustive. There are no hard-and-fast rules regarding grant or refusal of bail, each case has to be considered on its own merits. The matter always calls for judicious exercise of discretion by the Court.”

19. There can be no quarrel with the proposition that in our criminal jurisprudence bail is the rule and jail is an exception. The legal proposition that there is no straightjacket formula for grant of bail is beyond cavil. The Supreme Court has also emphasised that although bail is a rule, Courts have to measure competing forces present in facts and circumstances of each case before enlarging a person on bail. [*Ref. State of Bihar & Another v. Amit Kumar alias Bachcha Rai, (2017) 13 SCC 751*].

20. Coming to the facts of the present case on which the present bail application is to be decided, there is no doubt that the allegations against the applicant are grave and serious. As per the prosecution case, on 20.01.2006, Sunil Kalra executed a sale deed in respect of Shop No. 4 in favour of his daughter Ridhi Kalra. Complainant alleged that he was informed that Ridhi Kalra and Sunil Kalra executed duly registered GPAs dated 06.10.2015 and 14.10.2015 in his favour authorising him to execute and enter into agreements to sell, execute sale deeds, accept consideration of the sale proceeds on behalf of Ridhi Kalra and their father, for the reason that the father was bed ridden and Ridhi Kalra could not leave her matrimonial home. Complainant was further informed that both the shops were free from all sorts of encumbrances and no agreement of sale was entered into with any third party. On 19.01.2016, the applicant executed a sale deed in favour of Mukesh Lamba, the complainant, when the same was already leased to Kotak Mahindra Bank. Subhash Sharma impersonated himself as Sunil



Kalra and executed GPA in favour of the applicant, which was witnessed by Renu Kalra. On 16.10.2015, applicant executed registered sale deed in favour of Santosh Lamba in respect of Shop No. 6 and on 09.10.2015 in respect of Shop No.4. It was later discovered that the applicant had sold Shop No. 4 to Niharika Jain and Harsh Gupta and Shop No. 6 to Vijender Ahuja, Rajesh Ahuja, Shiv Arora and thereafter to Meenakshi Dabla. Each of the victims have supported the prosecution case in their statements under Section 161 Cr.P.C. Pursuant to notice under Section 91 Cr.P.C., office of Sub-Registrar has confirmed the sale transactions. During the course of arguments, learned APP has handed over an undertaking signed by the applicant and Renu Kalra, admitting the sale of properties in favour of Niharika Jain and Harsh Gupta as well as Vijender Ahuja, Rajesh Ahuja, Shiv Arora and undertook to cancel/revoke the sale documents. Applicant has taken a defence that the exchange of money between the applicant and the complainant was not a sale consideration but was on account of loan transactions between them and substantial part of the borrowed money has been returned. This is a matter of trial and no view can be or ought to be taken at this stage. It is true that at the stage of considering bail application, the Court should not enter into appreciation of evidence but it is equally true that the Court can examine if *prima facie* there is any material to support the charge. Investigation so far, *prima facie* shows that there is incriminating material against the applicant as number of victims, who claim to be *bona fide* purchasers of the shops in question, have supported the prosecution case with documentary evidence. The purported sale documents on record, found to be registered at the office of the Sub-Registrar, the cheques in question, the alleged undertaking given by the applicant and Renu Kalra, at this stage,



do not support the plea of the applicant that there was no sale-purchase transaction between the applicant and the complainant and this becomes pronounced when one looks at the re-sale of the shops to persons other than the complainant.

21. Charge Sheet has been filed qua the applicant but the investigation is ongoing. State has taken a categorical position that the applicant has the tendency to flee from justice and this is fortified by the fact that the applicant was declared a Proclaimed Offender prior to his arrest. Propensity to commit offences relating to cheating, criminal breach of trust and conspiracy is *prima facie* reflected from 5 other FIRs registered against the applicant *albeit* no doubt, his guilt is yet to be established. It is stated in the Status Report that applicant is an influential person and the possibility of intimidating/threatening the witnesses, cannot be ruled out and his release on bail may impede, hamper or obstruct further investigation. In ***Masroor v. State of Uttar Pradesh and Another, (2009) 14 SCC 286***, the Supreme Court observed as under:-

“15. There is no denying the fact that the liberty of an individual is precious and is to be zealously protected by the courts. Nonetheless, such a protection cannot be absolute in every situation. The valuable right of liberty of an individual and the interest of the society in general has to be balanced. Liberty of a person accused of an offence would depend upon the exigencies of the case. It is possible that in a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned. In this context, the following observations of this Court in Shahzad Hasan Khan v. Ishtiaq Hasan Khan [(1987) 2 SCC 684 : 1987 SCC (Cri) 415] are quite apposite : (SCC p. 691, para 6)

“6. ... Liberty is to be secured through process of law, which is administered keeping in mind the interests of the accused, the near and dear of the victim who lost his life and who feel helpless and believe that there is no justice in the world as also the collective interest of the community so that parties do not lose faith in the



institution and indulge in private retribution.””

22. Looking at the nature of allegations, propensity of the applicant to commit crime, ongoing investigation, the fact that applicant had evaded the process of law and was declared a Proclaimed Offender as also the multiple victims involved in the case, in my view, this is not a fit case for grant of regular bail to the applicant, at this stage.

23. Application is accordingly dismissed with a usual caveat that nothing observed in the present order will tantamount to expression of an opinion on the merits of the case.

CRL.M.(BAIL) 560/2024 (for grant of ad-interim bail)

24. In view of the order passed in BAIL APPLN. 1177/2024, no further order is required to be passed in this application and the same is accordingly dismissed.

JYOTI SINGH, J

MAY 14, 2024/kks/BSR