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

+ CRL.M.C. 2859/2024 & CRL.M.A. 29658/2024

DIVVYA NIRULA

.....Petitioner

Through: Mr. Sanjay S. Chhabra, Mr. Sugandh
Virman, Advs.

versus

STATE GOVT OF NCT OF DELHI & ORS.

.....Respondent

Through: Ms. Priyanka Dalal, APP

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

13.11.2024

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1. This is a petition under section 439(2) Cr.PC seeking setting aside of the Impugned order dated 12.01.2024 passed by Addl. Session Judge (SFTC) Dwarka Courts in Bail Application No. 234/2024 emanating from FIR No. 31/2021 registered at PS:EOW for offences under Sections 406/409/420/120B IPC whereby bail was granted to respondent No. 2.
2. As per the facts, the petitioner and similarly situated home buyers were induced by respondent No. 2 to invest in flats/units in a Group Housing Project launched by respondent No. 3.
3. Respondent no. 3, i.e. M/s Kamp Developers Pvt. Ltd, is a registered company engaged in real estate development wherein the respondent no. 2, Mr. Pradeep Sehrawat, is one of the original Promoters and Directors. The respondent no.2 represented that the respondent no. 3 owns 10 acres of agricultural land which will be pooled/exchanged under the "Land Pooling Policy" for construction of the Group Housing Project in the name of "Eden



Heights" and "Crystal Residency".

4. Since the respondent Nos. 2 and 3 failed to construct the real estate project and it transpired that the whole project was sham and bogus, the petitioner and other home buyers filed civil cases and complaints before RERA, Delhi (Real Estate Regulatory Authority). It is stated that all 56 complaints against the respondent Nos. 2 and 3 are pending with the EOW (Economic Offences Wing).

5. On 12.01.2024, the Sessions Court granted bail to the respondent No. 2 on the grounds that (i) investigation was conducted after a lapse of 3 years; (ii) the accused has already settled the matter with 11 complainants and is also ready to settle the matter with other complainants. The Court relied on the judgment of the Hon'ble Supreme Court in *Satinder Kumar Antil v CBI* in SLP (Crl) No. 5191 of 2021 dated 11.07.2021 to state that the respondent No. 2 should not be kept in continued in judicial incarceration before conclusion of trial.

6. It is stated by the learned counsel for the petitioner that in the present case, the respondent No. 2 did not have any approval from the DDA under the "Land Pooling Policy" and did not even have the requisite RERA clearances to construct either of the projects, namely "Eden Heights" or "Crystal Residency". In case of "Crystal Residency", the respondent No. 2 did not even have the available land. The petitioner submits that the respondent no. 2 has transferred the project land repeatedly to launch new Group Housing Projects to defraud additional homebuyers. The bail was granted without even notice to the complainant/petitioner, who had invested their hard earned money in the project of Respondent Nos. 2 and 3 and had a right to be heard before the grant of bail.



7. I have heard the arguments raised on behalf of the parties.
8. The counsel for Respondent Nos. 2 and 3 was served notice and appeared on 3 occasions, i.e. 24.04.2024, 11.07.2024 and 04.09.2024, and repeatedly sought time to file a reply.
9. No reply has been filed.
10. A status report dated 22.04.2022 has been handed over in court by Ms. Dalal, learned APP showing that the respondent No. 2 collected amounts, namely Rs.1,05,43,97,881/- and Rs. 24,13,57,453/- from various investors in two bank accounts belonging to respondent no. 3 and the balance in the respective accounts today is Rs. 6,906 and Rs.2,31,634/-.
11. Another status report dated 11.11.2024 has been handed over in Court today (in a connected matter bearing number Crl.MC. No. 5115/2024) showing that the respondent No. 2 is not available at the given address.
12. The address of the surety, namely Mr. Umesh Kumar, was House No. 78, Dwarka, Sector-23, Village Pochan Pur, Dhulsiras, New Delhi- 110077.
13. On visit to the surety, the surety stated that the respondent no. 2 is his nephew and he resides at H.No. 1-5, B-Block, Pochanpur Extn, Dwarka, Sec-23, Delhi. The verification at the said address showed that the father of the respondent no.2 resides at the same address and he denied having knowledge on the whereabouts of the respondent No. 2. The father stated that respondent No. 2 has been missing since 05.09.2024 and a missing complaint has been lodged on 13.09.2024. In view thereof, the State also requests that the bail granted to the respondent Nos. 2 be cancelled.
14. From the aforesaid facts, *prima facie* appears that the respondent No. 2 has *prima-facie* looted and defrauded at least 56 innocent investors and have misappropriated Rs.125 crores. The respondent Nos. 2 and 3 also did



not have any authorisation from DDA for Land Pooling Policy and the respondent No. 3 company is also not registered with RERA, which is a mandatory requirement.

15. Despite repeated opportunities, no reply has also been filed by either respondent Nos. 2 or 3. The status report dated 11.11.2024 also shows that respondent No. 2 is no longer available for investigation or to participate in the judicial process. Even today Respondent Nos. 2 and 3 are not present nor is anymore available to represent them.

16. For the said reasons, the petition is allowed and the bail granted to respondent No. 2 *vide* order dated 12.01.2024 is cancelled.

17. The police is at liberty to initiate appropriate proceedings.

18. The status reports handed over in Court are taken on record.

JASMEET SINGH, J

NOVEMBER 13, 2024/sp

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