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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4238/2023**

EDWARD COLLINS JAMES Petitioner
Through: **Mr. Anuj Kapoor, Advocate.**

versus

MANISH KUMAR SHARMA AND ANR. Respondents
Through: **Mr. Darshan Raj and Mr. Abhishek Sirohi, Advocates for respondent No.1.**
Mr. Sanjeev Sabharwal, APP for State/Respondent No.2 with SI B.K. Bharti, P.S. Najafgarh.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
10.05.2024

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1. By way of present petition, filed under Section 482 read with Section 439(2) Cr.P.C., the petitioner seeks to assail the order dated 15.05.2023 passed by Ld. ASJ-03 & Special Judge (Companies Act), Dwarka Courts whereby petitioner's application seeking cancellation of bail, granted to the respondent No.1 vide order dated 07.09.2022 passed by Ld. M.M.-09, South West Dwarka in FIR No. 448/2021 registered under Sections 448/468/471/201/467/34 IPC at P.S. Najafgarh, has been dismissed.
2. Learned counsel for the petitioner submits that respondent No.1 had earlier approached this Court by way of anticipatory bail which came to be dismissed. His subsequent application seeking anticipatory bail was also dismissed whereafter he was taken into custody on 11.05.2022. Thereafter,



respondent No.1 preferred a regular bail application which was dismissed but later, vide the impugned order he was granted regular bail. On merits, learned counsel submits that complainant claims that his father purchased the subject property in 1994 from one Mr Sebagnanam Russel on the basis of a GPA. The subject property is described as Plot No. 216, Khasra No. 252, Roshan Garden situated in the revenue estate of village Masoodabad, Najafgarh. He submits that somewhere in June, 2021 the complainant came to know that respondent No.2 alongwith other accused persons had trespassed into his subject property. On a complaint being lodged, respondent No.1 set up a case of being the owners of the said property. He submits that in the present case, Section 467 IPC has been added which entails life imprisonment and as such grant of bail to the respondent No.1 is not justified.

3. Learned counsel for the respondent No.1, on the other hand, states that there is a dispute as to whether plot No. 216 falls in Khasra No. 252 or 253. He submits that the chain of documents through which the respondent No.1 claims ownership and possession is with respect to Plot No. 216, Khasra No. 253. He claims to have purchased the same from his aunt Tara Sharma on 17.05.2021, who in turn, had purchased it from the original owner Mehar Singh through sale transaction documents dated 12.01.1987. He further submits that though respondent No. 1 had preferred two bail applications however, the same were filed prior to filing of the charge-sheet. The impugned order came to be passed in the bail application that was preferred after the filing of the charge sheet. He submits that the said application was the first bail application after filing of the charge-sheet.

4. Learned APP for the State states that a query as to whether the Plot



No. 216 falls in Khasra No. 252 or 253 is pending verification with the concerned SDM. He further submits that photocopy of chain of documents, supplied by the respondent No.1, has also been sent to FSL and the result is awaited.

5. I have heard the learned counsels for the parties as well as gone through the material placed on record.

6. The essential dispute between the parties relates to plot No. 216. While the complainant claims it to be falling under Khasra No. 252, the respondent No.1 claims it to be under Khasra No. 253. Concededly, the verification on the aforesaid aspect is pending with the concerned SDM. Complainant also claims to have filed a civil suit seeking possession, declaration and injunction which is pending consideration wherein interim orders have already been passed. A perusal of the order passed by this Court would show that the same was passed in anticipatory bail which was essentially rejected for the reason that the NBWs were issued and respondent No.1 had not joined the investigation. After the arrest of the respondent No.1, the impugned order came to be passed after the filing of the charge-sheet. The dispute being documentary in nature, in my view, the impugned order passed by Ld. ASJ calls for no interference by this Court. Accordingly, petition is dismissed.

MANOJ KUMAR OHRI, J

MAY 10, 2024

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