



\$~2

\*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

**BAIL APPLN. 1803/2022 & CRL.M.A. 11916/2022**

SH. RAVI KUMAR

..... Petitioner

Through: Mr. Amit Saxena, Mr. Deepak  
Sharma, Mr. Deepak  
Srivastava and Mr. Tarannum  
Parveen, Advs.

versus

THE STATE GOVT OF NCT OF DELHI  
& ANR.

..... Respondents

Through: Mr. Pradeep Gahalot, APP for  
the State with Mr. Sayed  
Almas Husain, Adv.  
Mr. Manish Kumar, Adv. for  
complainant with complainant  
in person.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

%

**26.04.2024**

1. The present bail application is filed under Section 438 of the Code of Criminal Procedure, 1973 (**CrPC**) read with Section 482 of the CrPC seeking pre-arrest bail in FIR No. 416/2021 dated 12.11.2021, registered at Police Station Seelampur, for offences under Section 420/406/466/467/471/120B/34 of the Indian Penal Code, 1860 (**IPC**).

**The FIR**

2. The FIR was registered on a complaint made by Ashok Kumar alleging that one, Mukesh Chaudhary (also stated to be a distant relative of the complainant) induced the complainant to buy property bearing no. 291, Welcome Double Storey, Seelampur-III, Delhi-110053 (hereafter '**the property**') which was adjacent to his

**BAIL APPLN. 1803/2022**

**Page 1 of 7**



house.

3. As per the FIR, on 15.05.2019, the complainant met the accused persons namely, Sumanlata, Ravi Kumar (present applicant) and Mukesh Chaudhary, in order to finalize the deal *qua* the property with the owner and the total consideration of ₹26,00,000/- was decided. It is alleged that the complainant had given a sum of ₹5,00,000/- by way of cheque and the balance amount of ₹21,00,000/- by way of cash on the said date.

4. One, Pradeep was stated to be the owner of the property and executed GPA, Agreement to Sell, Will Deed, Receipt, Possession Letter and affidavit in favour of the complainant on 15.09.2019.

5. It is alleged that at the time of the purchase of the property, the complainant was assured that the property is free from all sorts of incumbrances such as sale, mortgage, gift, lease, decree etc. and, thereafter, the concerned papers of the property were executed.

6. It is stated that on 06.08.2021, the complainant came to know that a notice was issued by Delhi Urban Shelter Improvement Board ('DUSIB') with regard to the property to the accused persons whereby it was mentioned that – *vide* judgment/ order dated 20.11.2018 in new CS No. 12/16 titled as *Smt. Anuja @ Reshma vs. Suraj Pal and others* passed by the Court of learned Additional Sessions Judge, Karkardooma Courts, Delhi, it was held that the suit property is a government land which belongs to the Government of NCT of Delhi. It was further held that the plaintiffs as well as defendants had no right, title or interest in the property and directed the Director, DUSIB, to take appropriate action in accordance with law and, in consequence to that, Show Cause Notice dated 06.08.2021 under Section 41 of the DUSIB Act, 2010 was issued to the complainant.

7. It is stated that the complainant had also filed an application



before the concerned Officer. The property was however vacated and sealed on 25.08.2021, which led to the registration of the present FIR.

8. The present applicant is alleged to have an active role in transfer of the property.

**Brief facts with respect to the chain of Ownership.**

9. During the course of investigation, it was found that, in August 1968 the property was allotted to one Sh. Gendalal as a licensee, and on 13.09.1996 Sh. Gendalal executed a GPA / Agreement to Sell with respect to the property in favour of his wife namely Smt. Pushpa. On 04.08.1999 Smt. Pushpa made the GPA / Gift Deed & will of property, in favour of her sons namely, Shiv Kumar and Suraj Pal respectively.

10. That on 04.09.2012 sons of Sh. Gendalal, i.e., Shiv Kumar and Suraj Pal made the GPA / Agreement to sell / Will Deed, & Receipt (of amount Rs 32 Lacs) in favour of Smt. Sumanlata wife of the present applicant (Ravi Kumar).

11. That on 11.10.2013 Smt. Sumanlata, further executed a GPA / Agreement to Sell / Will Deed / Possession Letter, affidavit, in relation to the property, in favour of one person namely, Pradeep.

12. On, 10.10.2013 sister of Shiv Kumar & Surajpal, namely, Anujaa, filed a Civil Suit bearing civil suit No. 12/16, against Shiv Kumar, Surajpal, Sumanlata & Ravi Kumar @ Raju (present applicant) and Pradeep Kumar, respectively, before the Additional District and Sessions Judge, for her share in the property.

13. The learned ADJ on 20.11.2018, declared the property as government land and decided that neither the plaintiff nor the defendants have rights on the property. Co-accused Pradeep, thereafter, sold the property to the complainant on 15.09.2019 and executed GPA, Agreement to Sell, Will Deed, Receipt, Possession



Letter and an affidavit, in favour of the complainant

**Submissions**

14. The learned counsel for the applicant submits that his wife / co-accused Suman Lata, was a bona fide purchaser and seller of the property. She had purchased and subsequently sold the property using the same set of documents in 2013, much before any court adjudicated the property as government land.

15. The learned counsel further submits that the applicant has been falsely implicated in the present case and has nothing to do with the alleged sale to the complainant. He submits that the applicant was granted interim protection by this Court by order dated 06.06.2022 and since then the applicant has joined the investigation.

16. He submits that the applicant's pre-arrest bail application was dismissed by the learned Additional Sessions Judge on 23.05.2022 in a mechanical manner, without appreciating the material on record and the fact that the applicant has no connection with the case.

17. He submits that the applicant has no criminal antecedents, the entire case is based on documentary evidence, and there cannot be any apprehension of the applicant tampering with the evidence. He submits that the applicant also undertakes to join investigation as and when directed by the Investigating Officer.

18. The learned Additional Public Prosecutor for the State has opposed the grant of present bail application and submits that the applicant despite being in the knowledge of the judgment dated 20.11.2018 of the court of Sh. Hardeep Kaur, ADJ-02(SHD)/KKD/Delhi, which declared the said property as government land and held that neither the plaintiff nor the respondents have any rights over it, still executed documents to transfer the property to the complainant on 15.09.2019.



19. He submits that the ~~custodial~~ investigation of the applicant is required because the investigation is still pending. He submits that during the course of investigation, the co-accused Pradeep Kumar Aggarwal accepted that he executed the documents related to the property but did not disclose the mode of payment and the amount he received. He disclosed that the applicant had an active participation in the entire deal.

20. He submits that the applicant was actively involved in the deal of selling the subject property to the complainant and is also alleged to have received a total amount of ₹10,00,000/-, in which the applicant received ₹5,00,000/- in cash and ₹5,00,000/- as cheque which he took in the name of his relative, namely Ashish Rathore.

21. I have heard learned Counsel for the parties.

22. It is not in dispute that the complainant was a party to the civil suit with respect to the subject and had actively participated in the said proceedings along with all the accused persons.

23. The wife of the applicant had sold the property in the year 2013 to Pradeep. The documents in regard to the property were stated to have been executed by Pradeep in favor of the complainant. It is stated that pursuant to order dated 20.11.2018, neither Pradeep nor any other person had any right to deal with the property.

24. From the very nature of the offence and the allegations made, the entire incriminating material seems to be documentary in nature and is already available with the investigating agency. Therefore, it cannot be alleged that the applicant will influence the witnesses and tamper with the evidence if released on bail or is required for custodial interrogation.

25. While granting pre-arrest bail to the applicant, no doubt this Court must consider nature and gravity of the alleged offence, however, the Court is also to consider the role of the accuseds,



which in the present case is to be established since there is no material on record as to show the applicant is the one who allegedly sold the property to complainant. There is no direct transaction between the complainant and the applicant.

26. It is also not in dispute that the FIR was registered way back on 12.11.2021, and the applicant was granted interim protection by this Court *vide* order dated 06.06.2022. The applicant is stated to have joined the investigation.

27. It is not in doubt that order for grant of bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

28. The apprehension, of applicant fleeing from justice and tampering with the evidence, can be taken care of by putting appropriate conditions.

29. In view of the above, this Court is of the opinion that the custodial interrogation of the applicant is not required. It is directed that in the event of arrest, the applicant be released on bail on furnishing a personal bond of ₹25,000/- with two sureties of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicant shall not contact the complainant / witnesses or tamper with the evidence in any manner;
- c. The applicant shall not leave the Country without the permission of the learned Trial Court;



- d. The applicant shall give his mobile numbers to the concerned IO/SHO and shall keep their mobile phones switched on at all times.

30. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.

31. The bail application is allowed in the aforesaid terms.

**AMIT MAHAJAN, J**

**APRIL 26, 2024**