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

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+ **BAIL APPLN. 2084/2023**

SAURABH KUMAR Petitioner

Through: **Mr. Gaurav Singh, Advocate**
(through VC).

versus

STATE GOVT. OF NCT OF DELHI Respondent

Through: **Mr. Amit Ahlawat, APP for the State**
with **Ms. Bhawna Gera, Advocate.**
SI Abhishek, PS Jyoti Nagar.
Mr. Gaurav Mahajan, Advocate for
R-2.

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+ **BAIL APPLN. 2103/2023**

PUNIT KUMAR Petitioner

Through: **Mr. Gaurav Singh, Advocate**
(through VC).

versus

STATE GOVT OF NCT OF DELHI Respondent

Through: **Mr. Amit Ahlawat, APP for the State**
with **Ms. Bhawna Gera, Advocate.**
SI Abhishek, PS Jyoti Nagar.
Mr. Gaurav Mahajan, Advocate for
R-2.

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+ **BAIL APPLN. 2507/2023**

MAHINDER PAL SINGH Petitioner



Through: Mr. Akhil Sharma, Mr. Shreenidhi
and Mr. Shiv Charan Kaushik,
Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with Ms. Bhawna Gera, Advocate.
SI Abhishek, PS Jyoti Nagar.
Mr. Gaurav Mahajan, Advocate for
R-2.

7

+ BAIL APPLN. 2587/2023

SUDHIR KUMAR

..... Petitioner

Through: Mr. Gaurav Singh, Advocate
(through VC).

versus

STATE GOVT. NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with Ms. Bhawna Gera, Advocate.
SI Abhishek, PS Jyoti Nagar.
Mr. Gaurav Mahajan, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

23.04.2024

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1. The present applications under Section 438 of the Cr.P.C. filed on behalf of the applicants seek anticipatory bail in case FIR No. 283/2023, under Sections 420/467/468/471/447/448/120B/34 of the IPC, registered at P.S. Jyoti Nagar.

2. The case of the prosecution as per status report dated 30.06.2023,



authored by SHO, P.S. Jyoti Nagar, is as under:

- “1. On dated 20/11/2022, early morning at about 4:00 AM, complainant Sh. Jiten Mahajan & Sh. Jai Prakash Pal came to PS Jyoti Nagar and reported that they are the real/registered owner of the property bearing No. C-132, (Old Number - C-143), land measuring 240 sq yd, & 105 sq yards, East Gokal Pur, Amar Colony, Delhi.
2. Jiten Mahajan & Sh. Jai Prakash Pal further stated that some unknown persons have erected tin shade on their above mentioned property and they have entered/ criminally trespassed inside.
3. Immediately, local police, PCR staff along with complainant Jiten Mahajan rushed to the above address. There, it was noticed that a tin shades has been erected on the above mentioned land/plot and a few ladies/ families were present inside. Heated arguments between Jiten Mahajan and the persons inside the tin shade took place.
4. Upon enquiry, one person namely Rakesh Kumar appeared and stated that he is the owner of the above mentioned property. Both the parties (Jiten Mahajan & Rakesh) were brought to police station Jyoti Nagar and few Police staff were left at the spot to ensure that no fight/further work is carried out. Thereafter detailed enquiry was conducted from both the parties. Both the parties gave a written complaint along with the copy of the relevant documents pertaining to the above said property.
5. As per the complaints submitted by both the parties, legal actions (Kalandara U/S 107/150 Cr.PC & Kalandara U/S 145 Cr.PC) were prepared. Further, the photocopy of the documents submitted by both the parties were sent to land owning agency i.e Sub-registrar-IVA Shahdara Delhi and Sub-registrar Vivek Vihar Delhi for verifications/genuineness of the documents.
6. After a few days, reports were received from Sub Registrar (SR) Vivek Vihar stating that the documents/will deed/GPA submitted by Jiten Mahajan & Jai Prakash Pal is found to be registered at their office. As per the report of SR Vivek Vihar Delhi GPA of Jiten Mahajan & Jai Prakash was recorded in their office record at Registration No. 1774: Registration year 2019-2020; at Book No. 4; Vol Number 266 on pages 59 to 63 measuring 240 sq yard and also GPA Holder of property bearing No. C-132, (Old Number -



C-143), land measuring 105 sq yd, Plot No. 1-2, Khasra Number 796.705/2. Block -C, Amar Colony, East Gokul Pur, Delhi-110094 vide General Power of Attorney dated 18/09/2019 registered at Sub Registrar Office (SR No. IVb. Vivek Vihar, New Delhi) Registration No. 1775; Registration year 2019-2020; at Book No. 4; Vol Number 266 on pages 64 to 68.

7. Further, reports from sub registrar -IVA Shahdara was also received stating that the conveyance deed (under PM Uday Yojana) has been executed in favour of Rakesh is also found to be kept in their record.

8. The letter/conveyance Deed in favour of Rakesh was sent for verification to DDA, Delhi (the issuing authority) i.e the office of Dy. Director of DDA (PM Uday Yojana) to know the status/sanctity/genuineness of the conveyance deed.

9. Dy. Director/DDA clearly mentioned in his reply that such conveyance deed has not been issued from their office. This conveyance deed is forged and fabricated.

10. During the course of inquiry, it came to notice that Rakesh executed the registry in his favour from Sub Registrar IV Shahdara by presenting the forged letter/ conveyance deed (CD) of DDA under PM Uday Yojana.

11. After completion of the enquiry, on the complaint of Jiten Mahajan S/o Sukh dev Raj Mahajan & Jai Prakash Pal s/o Nathu Singh Pal, a case vide FIR No. 283/2023 dated 12/04/23. U/S 420/467/468/471/447/448/120B/34 IPC was registered at PS- Jyoti Nagar.”

3. It is the case of the prosecution that the present applicants in furtherance of the criminal conspiracy with co-accused Rakesh Kumar executed a sale deed for Rs. 1 crore 65 lakhs in their favour. As per the documents, the aforesaid amount was made through various cheques, which were never presented to Bank for clearance, thereby reflecting the same to be a sham transaction. During further investigation, it was revealed that the said cheques were never presented to Bank for clearance, which reflects that the present applicants had intentionally connived with the co-accused



Rakesh Kumar in entering into a sham transaction to grab the complainant's plot/land.

4. Learned counsel appearing on behalf of the applicants, namely, Saurabh Kumar in BAIL APPLN. 2084/2023, Punit Kumar in BAIL APPLN. 2103/2023 and Sudhir Kumar in BAIL APPLN. 2587/2023 submit that all the allegations in the FIR are with respect to co-accused Rakesh Kumar and the present applicants have not been named therein. It is further submitted that the applicants Saurabh Kumar and Sudhir Kumar are the bonafide purchaser of the property, i.e. C-132 (Old Number. C-143) Plot No. 1-2, Amar Colony, Block C, East Gokul Pur, Delhi, for which a civil suit had already been filed by the complainant. It is further submitted that in pursuance of the interim protection granted by this Court, the applicants had joined the investigation. It is further submitted that the cheques as alleged by the prosecution was given as a security and thereafter the consideration amount was paid in cash to co-accused Rakesh Kumar. In view of the same, it is submitted that no custodial interrogations of the present applicants are required and the present applications for anticipatory bail may be allowed.

5. Learned counsel for the applicants, namely, Mahinder Pal Singh in BAIL APPLN. 2507/2023 submits that the name of the present applicant was not mentioned in the FIR and the allegations are with respect to co-accused Rakesh Kumar. It is further argued on similar lines that he was a bonafide purchaser and the cheques as alleged by the prosecution were given as a security; further, consideration was paid in cash to co-accused Rakesh Kumar.

6. *Per contra*, learned APP for the State assisted by the Investigating Officer and learned counsel for the complainant, submits that during



investigation, co-accused Rakesh Kumar was arrested, who disclosed active involvement of the present applicants in the criminal conspiracy in order to grab the land/plot of the complainant. It is further submitted that the applicants could not place on record any document/record to show how they paid Rs. 1 crore 65 lakhs in cash. It was also pointed out that one person namely, Suman, had been residing at the property in question which was given to her on rent after execution of the sale deed; however, it has further come on record that the applicant Saurabh Kumar in BAIL APPLN. 2084/2023 and Punit Kumar in BAIL APPLN. 2103/2023 already knew the said lady before the alleged purchase of the property in question. The prosecution also relies upon CDR connectivity to show the presence of applicants Saurabh Kumar in BAIL APPLN. 2084/2023 and Punit Kumar in BAIL APPLN. 2103/2023 on the intervening night of 19-20.11.2022 at the property in question, i.e. C-132 (Old Number. C-143) Plot No. 1-2, Amar Colony, Block C, East Gokul Pur, Delhi. It is further submitted that the applicant Punit Kumar in BAIL APPLN. 2103/2023 had applied for conveyance deed under the PM Uday Yojna with his Mobile No. 9310004923 and mail Id. Punitchaudhary83151@gmail.com. It is pointed out that when the said conveyance deed was rejected by the DDA, he prepared a forged conveyance deed and presented the same before Sub-Registrar, IV-Shahdara and got the property in question registered in the name of co-accused Rakesh Kumar. The said mobile number is stated to be in his name and has been verified. It is further stated that the said applicant Punit has also been accused of grabbing a land adjacent to the property in question in a similar modus operandi and FIR No. 252/2022 under Section 420 IPC has been registered at P.S. Jyoti Nagar. It is further stated that one



of the alleged purchaser, i.e., applicant Sudhir Kumar in BAIL APPLN. 2587/2023 is his real brother.

7. Heard learned counsel for the parties and perused the record.

8. The bail application of co-accused Rakesh Kumar being BAIL APPLN. 1571/2023 for anticipatory bail has been dismissed by learned Single Judge of this Court *vide* judgment dated 14.07.2023, wherein, it has been held and observed as under:

“7. At the outset, it may be made clear that there is no dispute with regard to the identification of the property in question, though during the course of the arguments learned senior counsel for the petitioner had argued that the Khasra Nos. are different and the properties are different properties. But even as per the documents filed by the petitioner the properties in question are the same for which the present FIR has been registered against the petitioner.

8. According to the petitioner, the property in question was sold by him on 29.12.2022 to four persons by way of sale deed for a consideration of Rs. 1,65,00,000/- but the petitioner has not even placed a single document on record in regard to this money transaction and has even failed to submit as to how this amount was paid to him by the buyers of the property in question.”

11. No doubt, during the course of the arguments learned senior counsel for the petitioner had handed over some original documents to the IO but that does not come to the aid of the petitioner at this stage. The plot in question was sold on the basis of the forged and fabricated conveyance deed as verified by the DDA. There is not even an iota of whisper as to how the petitioner received a sum of Rs. 1,65,00,000/- for the sale of the plot in question. In order to derive the title of the property in his favour the petitioner has relied upon GPA dated 26.08.1994, GPA dated 06.02.1985, GPA dated 10.07.1985, GPA dated 30.05.1989. The petitioner has also relied upon agreement to sell dated 30.05.1989 which is executed by one Smt. Rewti Dass. The perusal of these documents shows that they are notarized but the seal of notary is not legible and even the name, enrollment number and registered number have not been mentioned



on these notarized documents, so in these circumstances, the custodial interrogation of the petitioner is must so as to unearth the conspiracy and as to how these documents got notarized and as to whether any such notary exists and whether the entries are there with the notary. The allegations against the petitioner are grave and serious in nature and the FIR against the petitioner has been registered under Sections 420/467/468/471/447/448/120B/34 IPC and the maximum punishment is up to life. No ground for bail is made out, the application is, therefore, dismissed”

9. During course of hearing of the present bail applications, on a pointed query from the learned counsel for the applicants, it was stated that the amount of the sale transaction was paid to co-accused Rakesh Kumar in cash; however, no document by way of any receipt or any other document of similar nature have been placed on record to establish the same. The applicants have, although joined the investigation, have not cooperated with the Investigating Officer and have given evasive replies which have come on record by way of investigation.

10. It has further come on record that the case of the prosecution *prima facie* shows that the applicants, namely, Saurabh Kumar, Sudhir Kumar and Mahinder Pal Singh cannot be considered as bonafide purchasers from co-accused Rakesh Kumar. In fact the said applicants namely Saurabh Kumar, Sudhir Kumar and Mahinder Pal Singh have actually executed a sale deed showing purchase of the property in question from co-accused Rakesh Kumar without any consideration amount, which clearly points out their connivance in the present FIR. It is also pertinent to note that none of the applicants have filed any complaint against co-accused Rakesh Kumar for selling them the land on forged document. The circumstances as pointed out hereinabove clearly prime facie indicates connivance of the present



applicants with co-accused Rakesh Kumar for creating forged documents in order to grab the property of the complainant. Further the evidence placed on record shows the presence of applicants, namely, Saurabh Kumar in BAIL APPLN. 2084/2023 and Punit Kumar in BAIL APPLN. 2103/2023 on the date of alleged incident, i.e., on the intervening night of 19-20.11.2022.

11. In view of the above and in totality of the facts and circumstances, the present applications are dismissed and disposed of.

12. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observation(s) made are only for the purpose of the present bail applications.

13. Interim order(s) stand vacated.

14. Pending application(s), if any, also stand disposed of.

15. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

APRIL 23, 2024/bsr

Click here to check corrigendum, if any