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

+ **BAIL APPLN. 2752/2023**

PRATEEK JAIN

.....Petitioner

Through: Mr. Abhimanyu Bhandari, Mr. Utsav Saxena & Mr. Kartikey Singh, Advocates with petitioner in person.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amol Sinha, ASC, Crl. for State. Insp. Rajiv Gulati, PS EOW, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

12.07.2024

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1. The present Petition under Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioner seeking regular bail in FIR No. 0044/2019 registered under Sections 406/420/120B of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC, 1860"*) at Police Station EOW, Mandir Marg, Delhi.

2. It is submitted that the bail application of the petitioner was rejected on the sole ground that there are other FIRs registered against him and that one Mr. Vijayant Jain, co-accused *vide* Order dated 03.08.2023 by learned Additional Sessions Judge, North East District, Karkardooma, Delhi.

3. It submitted that the complaints met the petitioner and one Mr. Vijayant Jain, co-accused, who are the Directors of M/s Desire Infracon Pvt. Ltd., for investing in their project. After negotiations and projection of the



Property bearing Plot No. 100, A-Block, Sector 7, Rampuri, Village Chikambarpur, Loni, Ghaziabad represented to be free from encumbrances and timely handing over possession, entered into an Agreement to Sell the said property for a sale consideration of Rs. 1,26,00,000/- which was paid by the complainant/Sandeep and when the complainant sought to raise loan on the said property, the said property was encumbered and mortgaged to Punjab National Bank, Noida, Uttar Pradesh. The said property was also discovered to have been sold to different persons by changing its description. The FIR No. 0044/2019 under Sections 406/420/120B of IPC, 1860 has been registered against the petitioner who was arrested on 06.06.2022 and since then, he is in judicial custody.

4. It is argued that the accused/petitioner is an innocent person who has been implicated falsely and he has already resigned from the Directorship of M/s Desire Infracon Pvt. Ltd. way back in 2012 and he has no role in subsequent transfer of the property or its mortgage.

5. It is further submitted that since the chargesheet has been filed and the investigation has been completed and further custody of the accused/petitioner is not required. Hence, the prayer is made that the regular bail be granted.

6. Learned Additional Standing Counsel for the State submits that the allegations are serious and involved not only the petitioner but also the other persons. The petitioner had stood as guarantor to the loan agreement executed with Punjab National Bank *qua* the disputed property and defrauded the Bank as well.

7. He submits that the petitioner is a habitual offender and has around 108 FIRs against him for similar offences. Moreover, the co-accused,



Vijayant Jain is the brother of the petitioner, has been declared the proclaimed offender.

8. He also submits that the accused has a liability to repay a huge amount to his creditors and there is every likelihood of his absconding.

9. The complainant submits that there are advance talks of settlement with the accused. The report shows that apparently, these settlement talks have been continued for the last more than seven months. Initially, the interim bail granted to the petitioner *vide* Order dated 19.10.2023 on account of the ailment of his mother which kept getting extended from time to time. The petitioner, while on interim bail, apparently has got into the settlement talks with the complainant. On specific query, it is stated that the complainant and the accused are making an endeavour to get into a collaboration agreement to construct the said property together and then to realise their respective shares from the funds so generated therefrom.

10. The accused/petitioner, who is present in the Court, on being asked who he would get into the collaboration agreement with the complainant in respect of the said property? He states that the Company i.e., M/s Desire Infracon Pvt. Ltd. is still subsisting which has the two Directors and he, in collaboration with the two Directors of the said Company, would be able to prevail and get the dues settled. He also submits that though he is not the Director, but he has 50% shareholding in the said Company and, therefore, he continues to exercise his right over it.

11. In view of the submissions made by the learned counsel for the complainant as well as the accused/petitioner that they are in advance talks of settlement, the interim bail granted to the accused/petitioner cannot be continued to be extended *ad infinitum*. Accordingly, the present petition



stands dismissed.

12. However, the accused/petitioner is at liberty to approach the learned Trial Court afresh, which may consider the subsequent development and consider his bail on merits and decide the same afresh.

13. The accused/petitioner is granted interim bail in FIR No.0044/2019 registered at Police Station EOW, Mandir Marg, Delhi, under Sections 406/420/120B of IPC, 1860 for a period of seven days from the date of his release for approaching the Trial Court for applying his bail application, upon his furnishing a personal bond in the sum of Rs. 25,000/- and one surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- a) Applicant shall not leave Delhi/NCR without prior permission of the Court;
- b) Applicant shall appear before the Court as and when the matter is taken up for hearing;
- c) Applicant shall provide his mobile number and also the mobile number of his wife/surety to the IO concerned, both of which shall be kept in working condition at all times and he shall not change the mobile numbers without prior intimation to the Investigating Officer concerned;
- d) Applicant shall inform the IO and the Jail Superintendent the address where he shall be available in Delhi.
- e) Applicant shall also inform the IO of the Hospital where he is undertaking the medical procedure for his ailment and shall keep updating the IO on a weekly basis of the treatment undergone by him.
- f) Applicant shall not indulge in any criminal activity and shall not



communicate with or come in contact with the witnesses.

14. Upon expiry of period of seven days, as stated above, the petitioner shall surrender before the concerned Jail Superintendent.

15. A copy of this Order be forwarded to the concerned Jail Superintendent.

NEENA BANSAL KRISHNA, J

JULY 12, 2024

S.Sharma