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

% ***Date of decision: 5th August, 2024***

\+ **BAIL APPLN. 2356/2024**

GURPREET SINGH ANAND @ VINNY .....Petitioner

Through: Mr. Kaushal Jeet Sethi, Mr. Hirein Sharma, Mr. Saurabh Goel, Mr. Jatin Yadav and Mr. Balaji Pathak, Advocates.

versus

STATE NCT OF DELHI .....Respondent

Through: Ms. Richa Dhawan, APP for the State.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT *(oral)*

1. The Bail Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed on behalf of the petitioner seeking Regular Bail in FIR No. 14/2022, dated 19.01.2022, under Section 406/420/467/468/471/170 & 120-B of the Indian Penal Code *(hereinafter referred to as 'IPC, 1860'),* registered at Police Station Special Cell.

2. Status Report that has been filed today, be taken on record.

3. Three Bail Applications were filed before the learned Trial Court, which have been dismissed *vide* Orders dated 18.09.2023, 23.12.2023 and 06.06.2024 respectively. The Charge-Sheet has been filed in the Court on 24.02.2023. The process under Section 82 Cr.P.C. was initiated against the petitioner, Gurpreet Singh Anand @ Vinny, returnable on 18.03.2024. Subsequently, petitioner preferred Anticipatory Bail before the learned Trial

Court, which was rejected *vide* Order dated 16.03.2023. Thereafter, he preferred an Application for setting-aside the proceedings under Section 82 Cr.P.C. before the learned CMM wherein the it was stayed *vide* Order dated 27.04.2023, on the condition of the petitioner joining the investigations. The petitioner consequently joined the investigations despite which he was arrested on 01.05.2023. Supplementary Charge-Sheet has been filed on 27.07.2023.

4. It is submitted that the bail is sought on the ground that false allegations have been levelled against him by the complainant with ulterior motive and he has been falsely implicated in this case. The alleged transactions were never entered into by the petitioner and for this reason no evidence till date, has been collected by the police to corroborate the allegations made in the complaint. The Charge-Sheet fails to even verify the cash trial or the source of funds of which the complainants are allegedly having been deprived of by the accused persons.

5. The perusal of the FIR and the Charge-Sheet filed subsequently, would show huge inconsistency in the amounts, as has been alleged to have been cheated from the complainant. It is alleged in the FIR that a cash amount of Rs.11,70,000/-, was paid by the complainant to the petitioner on 16.02.2019, but this amount does not find any mention in the Supplementary Charge-Sheet. Likewise, the cash amount of more than Rs.4 Crore finds no mention in the complaint as well as the FIR but somehow has appeared magically in the Supplementary Charge-Sheet.

6. The petitioner has further claimed that the Investigating Officer has failed to investigate the veracity of the alleged cash amount given by the

complainants to the petitioner. Furthermore, since the petitioner had joined the investigations pursuant to Notice under Section 41A Cr.P.C., his arrest was an abuse of process of law and violative of the guidelines laid down by the Apex Court in the Case of *Arnesh Kumar and Satinder Kumar Antil.*

7. The petitioner had joined the investigation pursuant to the directions of Ld. CMM and there was no reason for the police to suspect that his presence would not be secured before the Court. No new evidence/material has been uncovered against the petitioner and his arrest is based on the information gathered before issuance of Notice under Section 41A Cr.P.C. Therefore, his arrest is arbitrary, whimsical and contrary to the guidelines of the Apex Court.

8. The petitioner has clean antecedents and no criminal history and there is no likelihood of his committing the offence in future. Moreover, the FIR had been registered on 19.01.2022 but no investigations were carried out till 10.12.2022 that is almost for one year when the statements of the complainants got recorded.

9. There are material discrepancies in the statements of the complainants. The allegations made in the FIR, are false, baseless and frivolous since inception as the complainants never made a bid for three plots as is alleged by him. It is further asserted that the entire Charge-Sheet fails to mention any visit on the part of the complainants, to DDA flats that were being shown to them by the accused persons.

10. A bare perusal of the Charge-Sheet would reflect that the complainants have been entering into transactions with the accused since 2018, for purchase of multiple properties of DDA but till the registration of

FIR, they failed to put any effort to make even one odd visit to any one of such property. It is highly improbable that cash amount of Rs.40 Crores approximately has been paid to the accused persons without verifying how such cash has been generated by the complainant. All the investigations are documentary in nature and no useful purpose would be served by keeping the petitioner in jail. Moreover, the FIR in itself is short of essential ingredients to make out an offence of Section 420 IPC. Reliance has been placed on *Anil Mahajan vs. Bhor Industries Ltd*., (2005) 10 SCC 228.

11. Moreover, the complainant's version of the story, fails to show any intention/motive on the part of the applicant nor any specific role has been attributed to him aside from the fact that he was the person at whose instance the complainant met accused No. 1.

12. The essential ingredients of *mens rea* for cheating is, therefore, not established for which reliance has been placed on *Ravi Kumar Gupta vs. Narinder Kumar and Co.,* (2007) 3 RCR (Crl) 511. The petitioner has submitted that there is no likelihood of his influencing the prosecution witnesses nor are there any chances of tampering the evidence. He is willing to abide by all the terms and conditions and has sought the bail.

13. The ***State has filed the Status Report*** wherein it has been submitted that the petitioner was granted 10 days interim bail from 19.11.2023 to 25.11.2023 *vide* Order dated 17.11.2023 of this Court, on account of his wife's surgery, which was extended till 06.12.2023, for post operative care of his wife. He did not surrender till 06.12.2023 but subsequently, he moved an extension, which was granted till 14.01.2024. He got admitted on 09.01.2024 with the history of fall in washroom and was granted interim bail

on his own medical grounds.

14. The interim bail has been extended several times by learned CMM till 15.05.2024 on account of surgery, which has not been done and has misused his liberty. It is submitted that his medical bail was further extended till 14.07.2024 with the direction that there shall be no further extension. He is still misusing his medical bail and is delaying the surgery despite three months' extension of interim bail till 12.10.2024, by this Court.

15. It is further submitted that as per the investigations, out of 55 Crores, which are involved in the present case of cheating, Rs.38,28,40,728/- has been received in cash by the three accused persons. Co-accused Gurpreet Singh Shahni @ Baba @ Bawa has received Rs.19,42,26,000/-; Gurpreet Singh Anand @ Vinny that is the present petitioner, has received Rs.7,23,70,000/- while co-accused Anil Kumar has received Rs.11,62,44,278/-. The complaints on different occasions from the complainants, in the name of allotment of 25 properties, were received.

16. The complainant used to maintain the diary mentioning details of cash while the remaining amounts were paid by the Demand Draft, by the complainants and the other victims. The diary was seized and sent to FSL for comparison with specimen signatures and handwritings of accused including of the petitioner. FSL Report has given a positive opinion in respect of the Hand Writing of the petitioner. There are audio and video recordings of co-accused, Anil Kumar in the mobile phones where they have admitted receiving the money. The mobile phones have already been seized and sent to FSL for retrieval of data. The data has been received from FSL on 12.07.2024, which is being analyzed.

17. During the investigations, present petitioner absconded and process under Section 82 Cr.P.C. has been issued. During this period, co-accused Anil Kumar was arrested on 28.11.2022, to disclose the offence committed by them. He identified the office in DDA office Vikas Sadan, Delhi wherein he was introduced as a DDA officer in connivance with the petitioner and co-accused Gurpreet Singh @ Bawa, to dupe the complainants. Later on, the co-accused Gupreet Singh @ Bawa and the petitioner were also arrested and they tried to mislead the investigations and identified another office (on the same floor) in DDA Complex, as the office where they along with the complainants used to meet the co-accused, Anil, who impersonated himself as DDA officer.

18. It is further explained that 11 Demand Drafts given by the complainants to the accused persons, were traced, which had been credited in regard to DDA properties, different from the alleged properties purported to be allotted to the complainants. The details of the Demand Draft received and deposited against the various properties, have been detailed.

19. It is explained that the documents pertaining to the alleged 25 properties, have been received from DDA and it has been opined that the stationery used in the alleged documents, is different from that which is used officially by the DDA. These documents have also been sent to FSL for comparison of handwriting with that of the co-accused persons. Ten challans have also been seized from Central Bank on 05.04.2024 in respect of which the investigations have been conducted.

20. In the end, it is submitted that the petitioner is involved in serious economic offence wherein huge money has been embezzled and there are

multiple victims involved. The crime has been committed in a well-planned manner, after hatching conspiracy *inter se* the accused persons. The Bail Application is consequently opposed.

21. Submissions heard.

22. To put the facts in a right conspectus, the FIR was registered on the complaint of *complainants, Mr. Brijmohan Goyal, Mr. Ashok Kumar Goyal and Mr. Devender Kumar Garg,* with the allegations that in the year 2018, they had jointly made a bid for three DDA plots but later, they backed out from purchasing the auctioned properties consequent to which the deposit of 5% of total cost of the plots deposited by them, got forfeited by the DDA. Thereafter, the co-accused Gurpeet Singh Shahni @ Baba @ Bawa approached the complainant, Mr. Ashok Kumar and assured him that he knew DDA officials and would be able to get back their forfeited amount. He also introduced the petitioner, Gurpreet Singh Anand @ Vinny and co-accused Amandeep @ Aman Anand. The accused persons showed different properties of DDA, to the complainants and said that their forfeited amount shall be adjusted against the said properties. The accused persons then showed the properties in the name of the complainants on fake website of DDA and demanded money from the complainant in the name of preparing the final documents such as Possession Slip, Conveyance Deed etc. They also introduced the co-accused Anil Kumar as the official of DDA. They forged and fabricated documents of 25 DDA properties and cheated the complainants to the tune to Rs.55 Crores (approx.). On these allegations made by the complainant, the FIR was registered.

23. Investigations were carried out and all the requisite documents that is

Allotment Letter, No Objection Certificate, Possession Slip, Allotment-cum-Demand Letter, Conveyance Deed, Bank Demand Drafts of 25 DDA properties, were collected, which on verification from the DDA, were found to be forged.

24. The allegations against the petitioner are that he along with the other co-accused persons, have cheated the complainants of a total sum of Rs.55 Crores, on the pretext of getting the allotment of plots from DDA. There are serious allegations of they having created a fake website to show that the properties have been allotted to them and thereafter, took Demand Drafts of various amount totaling to Rs.55 Crores. Though the Demand Drafts in the sum of Rs. 11,68,34,834/- have been found to be deposited in the account of DDA in the Central Bank of India, but the investigations have revealed that the major component of the amount of Rs.38,28,40,728/- has been embezzled by the petitioner and the two co-accused, out of which the present petitioner has received Rs.7,23,70,000/-.

25. The *modus operandi* had been to show the allotment of the plots of DDA by creating fake websites and subsequent fake documents. The ingenuity of the petitioner and the co-accused, can be well demonstrated from the fact that aside from creating the fake and forged documents, Anil Kumar, the co-accused even impersonated himself as a DDA officer and met the complainants in one of the rooms in the DDA complex.

26. It is not a simple case of cheating but of creating fake documents, fake records and of impersonation and of cheating the complainants of huge amount in a well thought of conspiracy between the petitioner and the co-accused persons. Looking at the gravity of the offence involving multiple

complainants, and the fact that the present petitioner is a beneficiary of huge amount and the recovery of that money could not be effected despite best efforts of Investigating Agency and that trial is yet to commence and that further investigations are stated to be going on, this is not considered as a fit case for grant of Bail, which is hereby dismissed.

27. The Petition is disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 5, 2024/RS