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

+ **BAIL APPLN. 2448/2024**

SHASHI GOEL

.....Petitioner

Through: Mr. Ankit Sinsiwar with Mr. Ravi Kant Gautam, Mr. Dhananjay Kumar, Ms. Ratna Haldar, Ms. Priyanka Ahlawat and Ms. Priya, Advocates.

versus

STATE GNCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State with IO/SI Sunil, P.S.: Adarsh Nagar. Ms. Jyoti Bajaj, Advocate for the complainant alongwith the complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

16.07.2024

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CRL.M.A. 20566/2024

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

BAIL APPLN. 2448/2024

By way of the present petition filed under section 438 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks anticipatory bail in case FIR No. 257/2024 dated 04.05.2024 registered under sections 420/34 of the Indian Penal Code, 1860 at P.S.: Adarsh Nagar, Delhi.

2. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'),



proceedings are to be “... ..disposed of, continued, held or made... ..” in accordance with the Cr.P.C. *only* in cases where *such proceedings*, viz. “... ..any appeal, application, trial, inquiry or investigation... ..”, was *pending* immediately before the date on which the BNSS came into force, *i.e.* 01.07.2024.

3. Since the present petition has been filed after 01.07.2024, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 482 read with 528 of the BNSS.
4. Learned counsel for the petitioner submits, that the FIR has come to be registered in the present case at the instance of a person who had purchased a certain property from the petitioner, which property had been purchased by the petitioner from a third-party, in the following transactions :
 - 4.1. The petitioner had purchased a property bearing Plot No. 473-A, Block-B, Khasra Nos. 17 min and 18 min situate in Village : Bharola, Majlis Park, Delhi *vide* Sale Deed dated 11.09.2019 from one Chander Muni Tyagi.
 - 4.2. Realising that the number of the property recorded in the sale deed was erroneous, the parties executed a Rectification Deed dated 04.01.2021, by which they corrected the property number from 473-A to 473 in Block 'B'.
 - 4.3. Thereafter the petitioner transferred the subject property to 03 persons namely Ashok Kalra, Mukund Lal Chugh and Rakesh Narang *vide* Sale Deed dated 09.12.2022, which sale deed was



presented for registration to the concerned Sub-Registrar of Assurances on 14.12.2022. However the concerned Sub-Registrar of Assurances declined to register the said sale deed, noting that *vide* order dated 10.08.2011 made by the Delhi High Court in CS(OS) No. 1955/2011 there was a restraint order against transfer of that property.

5. Mr. Ankit Sinsiwar, learned counsel appearing for the petitioner submits however, that property that was subject matter of the stay order was not property 473 in Block 'B' in *Khasra Nos. 17 min and 18 min* situate in *Village : Bharola* but property bearing No. 473-B in *Khasra No. 63 in Village : Azadpur*, as would be seen from a subsequent order dated 13.03.2014 made in CS (OS) No. 1955/2011.
6. Counsel submits that in the circumstances, the petitioner filed a writ petition bearing W.P.(C) No. 15369/2023 before the Delhi High Court, seeking a direction to the Sub-Registrar of Assurances to register Sale Deed dated 09.12.2022 in favour of the subsequent purchasers in respect of the property bearing No. B-473 in *Khasra Nos. 17 min and 18 min* situate in *Village : Bharola*, which petition is still pending consideration before the court.
7. In the circumstances, it is argued that evidently the petitioner has only purported to sell the property that she had bought from a third person namely Chander Munni Tyagi; and for which property the petitioner holds a duly registered sale deed. It is submitted that at the time when the sale deed and the subsequent rectification deed were registered in favour of the petitioner, the Sub-Registrar of Assurances had not raised any objection. That apart, it is argued that in any event, the dispute



between the parties is of a civil nature; and if anything, the petitioner herself may have been cheated by the original seller Chander Muni Tyagi.

8. Furthermore, it is pointed-out that as recorded in status report dated 10.07.2024 filed by the Investigating Officer ('I.O.') before the learned ASJ, the petitioner had joined investigation and had co-operated with the I.O.; and yet the learned ASJ was pleased to dismiss the anticipatory bail petition *vide* order dated 11.07.2024.
9. Issue notice.
10. Mr. Manoj Pant, learned APP appears on behalf of the State on advance copy; and accepts notice.
11. Ms. Jyoti Bajaj, learned counsel representing the complainant is also present alongwith the complainant on advance copy; and accepts notice.
12. The court has heard the learned APP as well as Ms. Bajaj.
13. The essential grievance of the complainant is that the sale deed signed by her (and two other co-purchasers) with the petitioner is not being registered by the Sub-Registrar of Assurances, which has compelled her to file the FIR.
14. Learned APP on the other hand submits, that in collusion and connivance with the within named Chander Muni Tyagi, the petitioner has cheated the complainant inasmuch as she was well aware of the discrepancy with regard to the identity of the property in question.
15. Learned APP submits that in fact there is only one property bearing No. 473; and the properties bearing No. 473A and 473B have been created by the accused persons as a ruse to create confusion.



16. The petitioner is stated to be a lady, about 65 years of age.
17. Ms. Bajaj submits that the complainant is also a very senior citizen; and in view of that circumstance, the complainant is willing to attempt a mediated settlement with the petitioner.
18. Upon a conspectus of the circumstances of the case, and considering the contours of the matter, in the opinion of this court, the dispute between the parties appears to be essentially of a civil nature, though it may have an element of criminality.
19. Therefore, without commenting any further on the ongoing investigation, this court is of the view that the interests of justice will be served if the present petition is allowed, while at the same time referring the parties to mediation in an effort to resolve the matter amicably, as has been prayed for by them.
20. Accordingly, the present petition is allowed, thereby directing that in the event of her arrest, the petitioner shall be admitted to bail by the Investigating Officer/Arresting Officer subject to the following conditions:
 - 20.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with 01 surety in the like amount from a family member, to the satisfaction of the Investigating Officer/Arresting Officer;
 - 20.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;



- 20.3. If the petitioner has a passport, she shall surrender the same to the Investigating Officer and shall not travel out of the country without prior permission of this court;
- 20.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending matter.
21. As requested by them, parties are also referred to mediation before the Delhi High Court Mediation & Conciliation Centre, with a request to the learned Organizing Secretary to appoint a mediator in the matter.
22. Let the parties approach the Mediation Centre on Monday *i.e.* 22nd July 2024 at 02:30 p.m. for the above purpose.
23. A copy of this order be sent to the learned Organizing Secretary of the Mediation Centre, for information and compliance.
24. The petition stands disposed-of.
25. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 16, 2024

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