



\$~12

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

+ **BAIL APPLN. 3519/2023**

RAJESH KUMAR SHRIVASTAVA

..... Petitioner

Through: Ms. Ritu Rastogi and Mr. Vijay Singh, Advocates.

versus

STATE OF NCT DELHI

..... Respondent

Through: Ms. Richa Dhawan, APP for State with SI Vijay Gaur, PS: Chhawla.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

28.03.2024

%

1. This is an application preferred on behalf of the applicant Rajesh Kumar Shrivastav S/o Sh. Ganesh Chand Shrivastava under Section 439 Cr.P.C. seeking regular bail in case FIR No. 67/2023 dated 09.02.2023 under Sections 420/34 IPC, registered at PS: Chhawla. Subsequently, Charge Sheet was filed in which Sections 468/471/120B IPC were added.
2. Status report has been filed. Case of the prosecution is that Mool Singh, Ganga Ram and Sujeet Sahani lodged a complaint at PS: Chhawla, alleging that they had separately purchased plots bearing Nos. 15, 34 and 15A respectively, out of Khasra Nos. 73/25/1(2-8) and 72/21/1(2-12), Village Chhawla, on different dates and paid the sale considerations out of their hard earned money to one Rajesh Shrivastava (applicant). The plots were sold under a conspiracy hatched by the applicant along with Rishi Pal and Jagbir Singh Mor to cheat them. Case of the complainants is that after having paid the consideration, when they visited the plots to take possession, they were not allowed to do so and were threatened to leave. Getting



suspicious, complainants cross-checked the status of the land from the Revenue Department, DM Office, Kapashera, New Delhi and learnt that the land was a Government/Gram Sabha land and applicant had no right, title or interest in the said land. Complaint was accordingly lodged with the police and FIR was registered.

3. It is further stated in the status report that during investigation, statements of complainants were recorded and documents pertaining to sale of the plots were obtained. Enquiry into the documents revealed that the land in question was in possession of Rishi Pal, on the basis of a Receipt, allegedly executed in his favour, but the revenue records reflected that his possession was unauthorized and illegal. Rishi Pal allegedly sold the land to Jagbir Mor through a General Power of Attorney (GPA) and he in turn sold to the applicant under a GPA, accompanied by other documents such as Agreement to Sell, Will, Receipt, etc. Revenue Department has since demolished the construction on the land and possession has been taken over. Investigation is complete and charge sheet has been filed. The bail application filed by the applicant has been dismissed by the learned Trial Court, as the charges are serious and grave. Applicant has not only cheated the complainants but also the Revenue Authorities by selling the plots, knowing that they formed part of the Gram Sabha land.

4. Learned counsel for the applicant argues that applicant is an illiterate person who runs a business of tents. Applicant purchased the plots from Jagbir Singh Mor after paying a huge consideration amount of Rs.37 lacs from his hard earned money in the year 2016 and had no reason to suspect that the title of the seller was doubtful. In fact, applicant is himself a victim of circumstances and has been cheated by Jagbir Singh Mor, who



represented to him that he had clear title to the plots. Applicant is a *bona fide* purchaser and had no idea until the complaint was filed against him that the land in question was a Gram Sabha land. Applicant is in custody since 27.07.2023 and since charge sheet has been filed, no purpose will be achieved by keeping the applicant in custody. During investigation, applicant had co-operated and no incriminating document was recovered from him. Applicant is not involved in any other case and has clean antecedents.

5. Learned APP appearing on behalf of the State, *per contra*, opposes the bail application and states that the allegations against the applicant are grave and serious. It is unbelievable that a person would buy land without verifying its status and exercising due diligence. It is apparent that applicant has hatched a conspiracy with Jagbir Singh Mor and in collusion, both sold the plots to the three complainants to earn money. Relying on the photocopies of the GPAs, Agreements to Sell, Affidavits, Receipts etc., which are handed over to the Court during the course of hearing, it is urged that applicant cannot claim that he is an innocent victim since he was witness to the GPA executed between Rishi Pal and Jagbir Singh Mor on 24.08.2016 and was well-aware of the said transaction. The collusion is further evident from the fact that the GPA between Rishi Pal and Jagbir Singh Mor was executed on 27.09.2016 and in less than two days, Jagbir Singh Mor entered into a transaction with the applicant and GPA was executed in his favour on 29.09.2016. Further, perusal of the GPAs also reflects that while the plots in question were transferred to the applicant by Jagbir Singh Mor only on 29.09.2016, the GPA executed in favour of the complainant Ganga Ram bears a date of 26.09.2015 and the date of purchase



of the stamp paper, on which the GPA is executed, is also the same. It is thus evident that a deep rooted conspiracy was hatched between Rishi Pal, Jagbir Singh Mor and the applicant, whereby they backdated and forged documents and sold the Gram Sabha land to the innocent complainants and applicant has played an active role in all the transactions. Supplementary charge sheet has been filed against Rishi Pal and Jagbir Singh Mor on 18.12.2023. It is further stated that during investigation, documents of sale and purchase executed by the applicant in favour of the complainants were sent for forensic examination and FSL report has confirmed the signatures of the applicant on the GPAs and other related documents. Case is at the stage of arguments on charge before the Trial Court and the next date is 10.04.2024. Bail is also opposed on the ground that applicant may fabricate documents and enter into similar transactions with innocent persons as also that he may tamper with evidence and threaten or intimidate the complainants or other persons associated with the transactions.

6. Heard learned counsel for the applicant and learned APP for the State.

7. Indisputably, the allegations against the applicant are serious. Investigation conducted by the Police has revealed and confirmed that the land in question is a Government land. Revenue Authorities are stated to have demolished the construction and taken possession. The prime argument of the applicant is that he is an innocent victim and *bona fide* purchaser of the land from Jagbir Singh Mor and was completely oblivious of the status of the land being a Gram Sabha land. Court has perused photocopies of the GPAs, handed over in Court by the learned APP, which were taken on record, for the limited purpose for deciding this application. Significantly, applicant has not disputed execution of GPAs in favour of the three



complainants *albeit* the FSL report has also confirmed the signatures of the applicant on the sale documents to be those of the applicant. From the GPAs and other related documents of transfer, it *prima facie* appears that applicant had an active and crucial role in the entire chain of transfer of the plots in question forming a part of Khasra Nos.73/25/1(2-8) and 72/21/1(2-12), Village Chhawla. Noticeably, applicant has signed as a witness on the GPA executed between Rishi Pal and Jagbir Singh Mor on 27.09.2016 and was thus completely aware of the transaction. Within two days of this transfer, GPA was executed by Jagbir Singh Mor in favour of the applicant. Another fact worth mentioning is that while the GPA was executed in favour of the applicant on 29.09.2016, the GPA executed by the applicant in favour of one of the complainant Ganga Ram is allegedly executed on 26.09.2015 and the e-stamp paper also bears the same date. Backdating and forgery of GPAs, affidavits, receipts etc. and a deep rooted conspiracy in all the 3 persons cannot be ruled out and there is no merit in the contention that the applicant is an innocent victim. State has taken a categorical position that there are chances of the Applicant tampering with evidence and threatening/intimidating the complainants, if released on bail. It was also urged by learned APP that there is a possibility that there are other innocent persons to whom the other plots may have been sold. In these facts and circumstances, Court is not inclined to grant regular bail to the Applicant, at this stage.

8. Application is dismissed, making it clear that no observations made in this order will be construed as an opinion on the merits of the case.

JYOTI SINGH, J

MARCH 28, 2024/shivam