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

+ **BAIL APPLN. 3551/2023**

ARBABULLAH KHAN Applicant

Through: Mr. Ajeet Kumar & Mr.
C.G. Maurya, Advs. with
applicant in person

versus

**STATE (GOVT. OF NCT OF
DELHI)**

..... Respondent

Through: Mr. Utkarsh, APP for the
State
SI Jaivind Kumar, PS-
Jamia Nagar
Complainant in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
07.02.2024

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1. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') seeking grant of pre-arrest bail in FIR No. 273/2023 dated 14.07.2023 registered at Police Station Jamia Nagar for offences under Sections 419/420/467/468/471/120B/34 of the Indian Penal Code, 1860.

2. The present FIR was lodged at the instance of the complainant, namely, Arif Parvez Bharti, who had purchased the 70% share in property bearing S-787 /5, part of Khasra no. 415, 420/260, situated at Jogabai Village, Tehsil Mehrauli, Okhla, New Delhi measuring 150 Sq yds from one, Shoeb. Later on the the complainant wanted to buy the remaining 30% of the property, to which the applicant asked him to speak to one, Maqsood Alam who is stated to be the brother of the alleged owner namely, Shamim Alam.

3. It is alleged that the applicant facilitated the entire



transaction and also told the complainant that he went to Bulandshahar to meet Shamim Alam (alleged owner) and his wife would contact him with respect to the sale of the 30% share of the property.

4. The complainant further alleged that he had received a call from one, Shabir who stated to be brother in law of Shamim Alam, and told that Shamim is willing to sell the 30% share of the property for ₹12,00,000/-. It is alleged that documents in respect of the sale of the said land were prepared and signed by Shamim Alam however, on making an enquiry in respect of the said property, it was found that the photo and signature of Shamim Alam were forged.

5. The complainant is present in person and on being asked, he submits that he has already settled the dispute with the applicant.

6. The learned Additional Public Prosecutor for the State, on instructions, submits that the applicant has joined the investigation as and when called for and no further custodial interrogation is required.

7. This court by order dated 24.11.2023, has granted interim protection to the applicant and it is not disputed that the applicant has joined investigation.

8. The Hon'ble Apex Court in Mohd. Asfak Alam v. State of Jharkhand, (2023) 8 SCC 632 has held as under:

“15. What appears from the record is that the appellant cooperated with the investigation both before 8-8-2022, when no protection was granted to him and after 8-8-2022, when he enjoyed protection till the filing of the charge-sheet and the cognizance thereof on 1-10-2022. Thus, once the charge-sheet was filed and there was no impediment, at least on the part of the accused, the court having regard to the nature of the offences, the allegations and the maximum



sentence of the offences they were likely to carry, ought to have granted the bail as a matter of course. However, the court did not do so but mechanically rejected and, virtually, to rub salt in the wound directed the appellant to surrender and seek regular bail before the trial court. Therefore, in the opinion of this Court, the High Court fell into error in adopting such a casual approach.

16. The impugned order of rejecting the bail and directing the appellant, to surrender and later seek bail, therefore, cannot stand, and is hereby set aside. Before parting, the Court would direct all the courts seized of proceedings to strictly follow the law laid down in Arnesh Kumar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449 : (2014) 8 SCR 128] and reiterate the directions contained thereunder, as well as other directions.”

9. The complainant has already settled with the applicant and the investigation seems to be over. In the opinion of this Court, custodial interrogation of the applicant is not required for the purpose of further investigation.

10. In view of the above, the applicant is admitted on bail, on his furnishing a personal bond of ₹50,000/- with one surety of the like amount to the satisfaction of the concerned SHO, subject to the following conditions:

- a. The applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time;
- b. The applicant shall not tamper with evidence;
- c. The applicant shall not leave the boundaries of the city without informing the concerned Investigating Officer.

11. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail



application, and should not influence the outcome of the Trial. The said observations should not be taken as an expression of opinion on the merits of the case.

12. The application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

FEBRUARY 7, 2024
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