



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3655/2023 & CRL.M.(BAIL) 1538/2023**
DARWAN SINGH Applicant

Through: Mr. Sandeep Sharma
(through VC), Mr. Hunny
Veer Singh & Mr. Ankit
Parindiyal, Advs.

versus

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

Through: Mr. Ajay Vikram Singh,
APP for the State with Mr.
Varun Bhadana, Mr.
Durgesh Chaudhary & Mr.
Vikas Sharma, Advs.
SI Mohit & SI Chetan, PS-
Swaroop Nagar

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
21.05.2024

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') seeking regular bail in FIR No. 185/2021 dated 02.05.2021 registered at Police Station Swaroop Nagar for offence under Sections 420/120B of the Indian Penal Code, 1860 ('IPC').
2. The present FIR was registered at the behest of the complainant alleging that in the year 2018, he bought 2300 square yard plot- Khasra No. 1166, Village Kushak No,2, Kadipur, Delhi from one Naresh Kumar and Mahinder Prasad Jain and had sold 400 square yard to the applicant.
3. It is alleged that on 05.03.2021, the complainant



discovered that the applicant had sold the said plot in two small plots using fake documents. It is alleged that the applicant cheated and grabbed the said land. It is alleged that when the complainant went to the plot, the applicant abused her obscenely and threatened to kill her. It is alleged that the applicant grabbed the land on the strength of weapons.

4. Subsequently, the applicant was arrested on 25.08.2022.
5. The chargesheet has been filed in the present case for offences under Sections 420/174A of the IPC *qua* the applicant.
6. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the investigation is complete and the chargesheet has also been filed.
7. He submits that even though the FIR was registered on a complaint that the property belonging to the complainant has been sold by the applicant without any authority, the persons who have alleged to have purchased the land have not given any complaint in regard to them being cheated. He submits that the property has further been sold by the complainant to different persons and, in such circumstances, it cannot be alleged that the complainant has been cheated.
8. He submits that the applicant is the sole bread earner and has two children to take care of. The applicant is in custody since 25.08.2022 and no useful purpose would be served by keeping him in further incarceration.
9. *Per Contra*, the learned Additional Public Prosecutor along with the learned counsel for the complainant vehemently opposed the grant of bail on the ground that serious allegations have been levelled against the applicant and that the applicant is



the beneficiary of the cheated amount. It is further submitted that the applicant has previous involvements.

10. I have heard the learned counsel for the parties.

11. While considering the application for bail, the Court has to consider the nature of the offence, severity of the punishment and *prima facie* involvement of the accused. The Court, at this stage, is not required to enter into the detailed analysis of the evidence to establish beyond the reasonable doubt whether the accused has committed offence. It is essential to remember that bail is not a determination of guilt but a safeguard ensuring the accused's right to liberty pending trial. Moreover, the court should ensure that bail conditions are tailored to address any potential risks while respecting the accused's rights. By upholding these principles, the court can strike a balance between protecting the interests of the complainant and safeguarding the rights of the accused.

12. The allegations against the applicant essentially are that he purchased a piece of land of 400 sq. yds out of the 2300 sq. yds in Khasra No. 1166, Kushak No.2, Kadi Vihar, Delhi, but sold the entire 2300 sq. yards to the different persons using fake documents.

13. It is not disputed that the persons who allegedly bought the land from the applicant have not made any complaint that they have been cheated. It is, in fact, pointed out that the complainant has further entered into agreements with those persons. Whether the applicant has any authority to sell the land would be tested during the trial.

14. From the very nature of the offence and the allegations made, the entire incriminating material seems to be documentary



in nature and is already available with the investigating agency. Even though it is alleged that the applicant will influence the witnesses and tamper with the evidence if released on bail but the same is only a bald assertion.

15. It is not alleged that the applicant is a flight risk or that he will tamper with evidence if released on bail. The apprehension, even otherwise, can be taken care of by putting appropriate conditions.

16. It is also settled law that criminal antecedents of an accused cannot be a basis for refusal of bail [*Prabhakar Tewari v. State of U.P. : (2020) 11 SCC 648*]. Keeping the applicant in jail will not serve any useful purpose since the chargesheet has already been filed and the applicant is in custody since 25.08.2022.

17. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance travel out of the country without prior permission of the learned trial court;
- c. The applicant 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 trial;



- d. The applicant shall appear before the learned Trial Court as and when directed;
 - e. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
 - f. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone active and switched on at all times.
18. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and also not be taken as an expression of opinion on the merits of the case.
19. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.
20. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 21, 2024