2024:DHC:293

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

Reserved on: 09.01.2024
Pronounced on: 15.01.2024

\+ **BAIL APPLN. 3665/2023 & CRL.M.A. 29869/2023**

GEETIKA DAHIYA ..... Petitioner
Through: Mr. Deepak Prakash, Mr. Manish Kumar, Mr. Vishnu Priya, Mr. Rahul Suresh and Mr. R. Dahiya, Advocates.

versus

STATE OF NCT OF DELHI ..... Respondent
Through: Mr. Amit Ahlawat, APP for the State with SI Dharmendra Sharma, Police Station Rajinder Nagar.
Mr. Tanveer Ahmed Mir, Mr. Vaishav Suri, Ms. Ariana Ahluwalia and Mr. Shashwat Sareen, Advocates for complainant.

JUDGMENT

VIKAS MAHAJAN, J.

1. The present petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in connection with FIR No.0392/2023 under Sections 420/120B/384/34 IPC.

2. The case of the prosecution as borne out from the FIR is that in the year 2019, complainant met the petitioner/accused no.2 through online portal for the purpose of surrogacy. The petitioner initially agreed to be the surrogate and even convinced the complainant to buy a flight ticket for her to

travel to Houston, USA where the surrogacy process was supposed to take place. However, after reaching New York, the petitioner disappeared and thereby cheated the complainant of the flight ticket expenses.

3. Later, in the year 2022 the petitioner/accused no.2 reappeared and approached the complainant with a proposal of investment in a property in Chandigarh i.e. H.No. 276, Sector 33A, Chandigarh (hereinafter referred to as 'said property'). The case of the prosecution is that the petitioner has 25% share in the said property which she claims on the basis of gift deed executed in her favour by her mother-in-law; 50% share belongs to the husband of the petitioner, namely, Amandeep Singh Mond (accused no.1) and remaining 25% vests in the sister-in-law of the petitioner i.e. sister of her husband.

4. As alleged in the FIR, the complainant being involved in Real Estate business, considered petitioner's proposal and agreed to invest in the property after petitioner showed the said property to the complainant. The petitioner showed the Gift Deed executed by her mother-in-law in her favour and induced the complainant to help her get the property mutated at the Estate Office in Chandigarh for which the complainant provided her financial assistance of Rs.1,00,000/-. Subsequently, the petitioner/accused no.2 introduced the complainant to her alleged brother-in-law, Mr. Jagmohan Singh Dhanoa, and her husband, Amandeep Singh Mond i.e. accused no.1.

5. The sum and substance of allegations against the present petitioner is that she induced the complainant to purchase the 50% share of her husband in the said property after travelling to USA where her husband was living and for this the petitioner had promised the complainant to give 5% share out of her 25% share in the subject property which could be sold in open market for profit.

6. It is further the case of the prosecution that the complainant travelled to USA and met petitioner's husband where the deal was struck between the complainant and petitioner's husband/accused no.1 for consideration of Rs.2,10,00,000/- in respect of his 50% share in the property. Thereafter, the accused no.1 i.e. Amandeep Singh Mond came to India and signed an agreement to sell and also executed other documents in favour of the complainant in respect of sale of his 50% share in the said property.

7. It is alleged in the FIR that thereafter substantial payments were made by the complainant to accused no.1 who kept on demanding more and more money but neither handed over original title documents nor executed any Sale Deed in favour of the complainant.

8. It is also alleged that the petitioner also extended threats to eliminate the complainant and demanded amount of Rs. 50,00,000/- from the complainant. Subsequently on enquiry being made from the Estate Office of Chandigarh, it transpired that property was under stay order and the complainant realised that he has been deceived and defrauded by the petitioner and her husband.

9. The learned counsel appearing on behalf of the petitioner submits that the allegations made in the FIR against the petitioner are without basis. He submits that the petitioner is litigating with her husband and a case has been filed by the petitioner being FIR No. 70/2022 under section 406/498A IPC against her husband, and he was arrested in Mumbai on the basis of LOC when he arrived from USA. The petitioner has also filed a complaint under Protection of Women from Domestic Violence Act, 2005 and the learned JMIC, Chandigarh vide order dated 08.05.2023 has restrained petitioner's husband Amardeep Singh Mond (accused no.1) from alienating his share in

the said property to any third party. In this backdrop, the learned counsel submits that there is no question of any collusion between the petitioner and her husband to defraud the complainant.

10. He submits that there is no material to show that the petitioner met the complainant in 2019 through an online portal for surrogacy or that she travelled to USA on a ticket purchased by the complainant or she disappeared after reaching USA. Likewise, there is nothing on record to prove that in the year 2022, the petitioner reappeared and approached the complainant with the proposal to invest in the property at Chandigarh and induced the complainant to pay a sum of Rs.1,00,000/-.

11. He submits that the allegation that petitioner persuaded the complainant to buy her husband's share in property are also bereft of substance. The allegation that petitioner threatened the complainant and demanded Rs.50,00,000/- from him is also a concocted story. According to the learned counsel, no payment, whatsoever, has ever been made by the complainant to the present petitioner.

12. He further submits that, in fact, petitioner's husband has got an FIR No.18/2023 registered against the complainant i.e. Rajiv Gambhir, as well as, the present petitioner under Sections 120B/323/364A/365/384 & 386 IPC at Panchkula. According to him, the present FIR is a result of conflict between the complainant and her husband.

13. The petitioner who joined the proceedings through video conferencing added that she is in possession of the said property and by way of present FIR she is being pressurized by the complainant to vacate the said property and sell her 25% share to the complainant. She states that it is her second marriage to her present husband and she also has a 9 years old son from her

previous marriage. She is working in HDFC Bank and has handsome salary and at no point she induced the present petitioner or demanded or received any money from the complainant. She submits that she does not have any criminal record. It is, therefore, urged that the petitioner be granted anticipatory bail.

14. The learned counsel appearing on behalf of the complainant has made submission on the lines of the allegations made in the FIR. Likewise, the learned APP made submissions on the lines of the status report.

15. I have heard the learned counsel for the petitioner and learned APP for the State along with learned counsel for the complainant and have perused the record.

16. It is an admitted case of the complainant that he is involved in the real estate business. On a query posed by the court, the learned counsel appearing on behalf of the complainant fairly states that the complainant does not have any roots in Chandigarh and he had entered into an Agreement to Sell with the husband of the petitioner i.e. Amandeep Singh Mond (accused no.1) *qua* his 50% share, as according to the complainant it was a disputed property and there was a possibility of making good profit out of said transaction.

17. On a further query by the Court, the learned counsel for the complainant fairly concedes that the Agreement to Sell was entered into by the complainant only with Amandeep Singh Mond *qua* his 50% share in the said property and the entire consideration money was also paid to him. He also admitted that the amount alleged to have been paid to the petitioner was paid in cash and there is no receipt or any other document to show the payment of said amount.

18. It is also not in dispute that in the petitioner's compliant filed under the Protection of Women from Domestic Violence Act, 2005, an order dated 08.05.2023 has been passed by the court of JMIC, Chandigarh whereby the petitioner's husband (accused no.1) has been restrained from creating third party rights *qua* his 50% share in the said property, which appears to be an impediment in transfer of his 50% share by the accused no.1 in favour of the complainant. Further, the petitioner seems to be in possession of the said property, therefore, the complainant despite having entered into an agreement to sell with accused no.1 to purchase his 50% share will not be in a position to take the possession of the said property or deal with the same till the time petitioner falls in line with the complainant's scheme of things, as real estate investor. Therefore, the possibility of complainant using the present FIR to arm twist the petitioner cannot be ruled out in the backdrop of the circumstances discussed above.

19. At this stage it is not possible to comment on whether the complainant is in collusion with the estranged husband of the petitioner i.e. accused no.1 or some dispute has also arisen subsequently between him and the accused no.1. It is, however, apparent that there is marital discord between the petitioner and her husband and they are also litigating against each other, therefore, the probability of petitioner being in collusion with her estranged husband, is remote.

20. Even the incident of the year 2019 does not appear to have any connection with the transaction/incident alleged to have taken place in the year 2022. Intriguingly, the column 3 of the FIR, where the date and time of the occurrence of offence is to be mentioned is blank.

21. Be that as it may, the petitioner is a woman having roots in the society.

Undisputedly, she is working in HDFC bank and has a child aged about 9 years. She is residing in the said property and has already been granted interim protection by the court of learned JMIC, Chandigarh under the Protection of Women from Domestic Violence Act, 2005, thus, she is not a flight risk. There is also no allegation that the petitioner has any criminal record.

22. Considering the circumstances in entirety this court is of the opinion that the petitioner is entitled to the relief of anticipatory bail. Accordingly, it is directed that in the event of her arrest, the petitioner may be released on bail, subject to her furnishing a bail bond in the sum of Rs.25,000/- to the satisfaction of Arresting Officer/IO and further subject to the condition that she will join investigation as and when directed by the IO concerned.

23. It is made clear that the observations made herein are only for the purpose of considering the bail application and the same shall not be deemed to be an expression of opinion on the merits of the case.

24. The petition along with pending application, if any, stands disposed of.

VIKAS MAHAJAN, J

JANUARY 15, 2024
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