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

\+ **<u>BAIL APPLN. 3134/2024</u>**

NITIN BUDHIRAJA .....Applicant
Through: Mr. Suraj Prakash Sharma, Adv.

versus

STATE OF NCT OF DELHI .....Respondent
Through: Mr. Ajay Vikram Singh, APP for the State with SI Sandeep Narwal, PS Narela.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

<u>O R D E R</u>

% **27.09.2024**

1. The present application is filed seeking regular bail in FIR No. 1036/2023 dated 11.12.2023, registered at Police Station Shahbad Dairy, for offences under Sections 420/468/471 of the Indian Penal Code, 1860 (**IPC**).

2. The FIR was registered on a complaint given by Sanjay Gujral, who claimed that the property bearing No. 574, Pocket 4, Sector 28, Rohini, Delhi (hereafter '**subject property**'), was purchased by him by registered agreement dated 18.12.2009 for which the conveyance deed was also executed in his favour on 08.03.2013. It is alleged that when the complainant visited some property dealers to determine the price of the property, he found that the property had already been sold in the market.

3. It is alleged that the accused persons prepared forged chain of documents from the original allottees–Bhupinder Kumar

Madan and Sushma Madan, to an impersonator posing as the complainant. The subject property was then sold to two different persons, namely, Pankaj Kumar and P.L Punj, through forged documents. It is alleged that someone impersonated as the complainant to execute the transactions.

4. During investigation, the purchaser Pankaj Kumar was interrogated and he claimed that he had purchased the property from a person impersonating as the complainant. It was alleged that the purchaser was introduced to the impersonator posing as the complainant by the applicant. The sale consideration was paid to the impersonator partly in cash and partly by way of a cheque issued by LIC Housing Finance Ltd. in favour of the impersonator Sanjay Gujral, who held an account at Indian Overseas Bank. The amount from the account of impersonator Sanjay Gujral was disbursed in the account of Nitin Verma, Mahavir Trading Co. and in the joint account of Lalit Kumar and Manisha.

5. Insofar as the applicant is concerned, it is alleged that the applicant helped the purchaser Pankaj in taking loan from LIC Housing Finance Limited. It is also alleged that the applicant connected the purchaser Pankaj with the individuals who were collectively involved in the sale of the subject property, including, Nitin Verma, Praveen Verma, Amichand (who was posing as the complainant), Raman Gulia and Puneet Chandok.

6. It is alleged that the applicant identified certain discrepancies in the documents and initially objected, however, when Raman and Puneet offered him ₹1 lakh, the applicant decided to proceed with the plan. It is alleged that the applicant informed Pankaj about the fraudulent nature of the documents, on

which Pankaj offered ₹6 lakhs to the applicant to ensure loan approval. It is alleged that following the approval of loan, the amounts of ₹1 lakh and ₹6 lakhs were respectively paid to the applicant in cash.

7. The applicant was arrested during the course of investigation on 27.06.2024. Supplementary chargesheet has been filed *qua* the applicant.

8. The learned counsel for the applicant submits that the applicant has clean antecedents and he has been falsely implicated in the present case.

9. He submits that the applicant is merely an LIC agent and he had no role in the procedure of advancing the loan from the corporation. He submits that there is no cogent material that links the applicant to the present offences apart from the disclosure of co-accused persons.

10. He submits that even though allegations have been levelled regarding the applicant receiving a sum of total ₹7 lakhs in cash for his assistance in securing the loan, there is no cogent evidence at this stage that substantiates the said allegation.

11. He submits that for the purpose of claiming loan, the purchaser Pankaj Kumar had to provide bank account number of impersonator Sanjay Gujral. He submits that Mr. Ashok Kumar, who is alleged to have helped the accused Amichand in opening the bank account in the Indian Overseas Bank in the name of the complainant, has already been granted pre-arrest bail in the present case by this Court by order dated 23..08.2024, passed in BAIL APPLN. 2502/2024.

12. He submits that the investigation is complete and the chargesheet has been filed in the present case. He submits that no

purpose would be served by subjecting the applicant to further incarceration.

13. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant.

14. He submits that a specific role has been attributed to the applicant in the commission of the present offence. He submits that the impersonator was introduced to the purchaser Pankaj by the applicant and the applicant was the main loan agent who prepared the documents and approached LIC for loan approval.

15. I have heard the counsel and perused the record.

16. 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 the offence.

17. It is the case of the prosecution that the applicant completed the loan sanction process even after finding out that the documents were forged and being aware of the plot hatched by the co-accused persons.

18. It is argued that the applicant had no role in the procedure of advancing the loan from the corporation.

19. It is not disputed that the applicant was working as an LIC agent. Even as per the case of the prosecution, the applicant became a complicit to the offence only after he raised certain concerns about the infirmities in the documents.

20. At this stage, the applicant is sought to be implicated essentially on the basis of the disclosure of the co-accused

persons. The veracity of the disclosure statements and whether the applicant had any knowledge that the documents on the basis of which the loan was secured were forged will be seen during the course of the trial.

21. Insofar as the allegation regarding the applicant having received ₹7 lakhs in cash for his cooperation in the plot is concerned, at this stage, there is admittedly no material to show the receipt of the said amount by the applicant. The allegations and defences would be tested during the course of the trial.

22. The supplementary chargesheet against the applicant has already been filed.

23. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. The applicant cannot be made to spend the entire period of trial in custody specially when the trial is likely to take considerable time.

24. Any apprehension regarding the applicant fleeing from justice, tampering with evidence or not cooperating with the investigation can be taken care of by putting appropriate conditions.

25. In such circumstances, this Court is of the opinion that the applicant has made out a *prima facie* case for grant of bail.

26. In view of the aforesaid discussion, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- 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 leave the boundaries of the country without the permission of the learned Trial Court;

c. The applicant shall appear before the learned Trial Court as and when directed;

d. 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;

e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

27. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

28. 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.

29. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

SEPTEMBER 27, 2024