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

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Reserved on: 24.05.2024

Pronounced on: 07.06.2024

+ **BAIL APPLN. 197/2024, CRL.M.A. 1532-33/2024 (for directions) & CRL.M.(BAIL) 90/2024 (Interim Bail)**

SATYANARAYAN SHARMA Petitioner

Through: Mr. Lalit Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI Respondent

Through: Mr. Amol Sinha, ASC for the State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present bail application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by the applicant seeking regular bail in case FIR bearing no. 142/2018, registered at Police Station EOW, Delhi, for offences punishable under Sections 420/409/120B of the Indian Penal Code, 1860 ('IPC').

2. Brief facts of the case are that the present FIR was registered on the complaint of one Sh. Sandeep Anand and others, against Directors of M/s Big Bull Infrastructure Ltd., who had alleged that they had purchased a plot from M/s Big Bull Infrastructure Ltd. in year 2013 at project 'Big Bull Ashiana' situated at Chandwaji, NH-8,



Jaipur, Rajasthan and as per the pre-allotment letter, they had been assured to be provided with the possession of said plot within 20 months. However, the accused persons namely Satyanarayan Sharma, Yogesh Sharma and Chetan Sharma, all directors of M/s Big Bull Infrastructure Ltd. had executed MOU, but had kept on lingering the issue of delivering possession of said plot. It is stated that the complainant(s) had later on come to know that accused persons had not developed the said area as per MOU and had cheated many persons on the same pretext. It is stated that neither that area was developed by the accused persons nor did they return the money with interest to the investors. On the basis of these allegations, an enquiry was conducted by EOW and it was found that the accused persons were neither in possession of said land nor they had obtained any permission/license/approval from concerned government authorities for the construction of housing project named as 'Big Bull Ashiana' at Chandwaji, NH-8, Jaipur. It was also found that the land shown to complainants belonged to some other builder, and presently one project named as 'London Street' is in progress there, belonging to some other builders, and no project named as 'Big Bull Ashiana' had ever been constructed at the said plot. During the course of investigation, it was revealed that the directors of M/s Big Bull Infrastructure i.e. Yogesh Sharma, Satyanarayan Sharma and Chetan Sharma, had neither applied in the Jaipur Development Authority for development of housing society nor had the accused obtained any permission/ approval from any government agencies. It is further stated that the land purchased by the accused in 2013 i.e. during



inception of the project, had been sold later on. It is stated that the accused persons had misrepresented to the victims that they intended to develop the housing society, as no effective work was done by them ever in order to develop a housing society. It is submitted that during the investigation, the accused company had provided the documents, in respect of land purchased by it at District Chandwaji, Rajasthan, however, investigation revealed that the accused persons had induced the investors to invest in the project on the basis of land purchased, but, later on the same land had been sold to some other persons. It is also stated that investigation had revealed that the accused Yogesh Sharma had executed sale deed of some land and placed board of the project on larger part of the land which did not belong to him. During the course of investigation, present applicant Satyanarayan Sharma was arrested on 08.07.2019 and the co-accused Yogesh Sharma was arrested on 11.01.2019. However, co-accused Chetan Sharma never joined the investigation and on 31.01.2020, he was declared as Proclaimed Offender. The chargesheet as well as supplementary chargesheet *qua* the present accused/ applicant has been filed in the Court of learned CMM, West, Tis Hazari Court. It is further submitted in the status report that during the course of investigation, some land situated in Village Manoharpur and Bishangarh, at Tehsil Shahpura, Rajasthan, which was suspected to have been purchased out of cheated funds, was investigated and during physical verification of the land, land owners were examined and their statements were recorded. It is stated that during verification, it was revealed that the co-accused Yogesh Sharma had



not paid the entire sale consideration to most of the land owners, due to which, the respective land owners did not deliver the premium of the land and the land still remains in the possession of the land owners. It is stated that the land was also not in the possession of the accused company. Investigation also revealed that the accused persons had also induced some other victims to invest in the above-mentioned land under the upcoming new project namely 'Bigbull Bashera' located at Village Bishangarh, Jaipur, Rajasthan.

3. Learned counsel for the present accused/applicant states that the applicant herein has remained on interim bail for more than 02 years and he had not misused the liberty. It is submitted that in view of the compromise entered into between the co-accused Yogesh Sharma, who is the brother of the present applicant, with the complainants before the mediation, this Court had granted him interim bail and on the grounds of parity, the present applicant was also granted interim bail by the learned Trial Court vide order dated 19.12.2019. However, the same was not extended by the learned Trial Court *vide* order dated 10.01.2022 and the applicant herein had later surrendered before the Court on 12.08.2022 and since then, he has been in judicial custody. It is also submitted that the regular bail application filed before this Court was dismissed as withdrawn on 27.04.2023. Thereafter, his bail applications were dismissed by the learned MM and learned ASJ *vide* orders dated 16.10.2023 and 06.12.2023, respectively. It is argued that there are no allegations in the FIR against the present applicant, which can indicate his involvement in offence under Sections 420/409 of IPC. It is also



stated that he had only 33% share in the company in question and he is ready to abide by any condition imposed by this Court and deposit any amount, if so directed. It is also argued that there are material discrepancies in the FIR itself and there are various genuine defenses available to the applicant. It is also contended that the applicant has already been interrogated by the concerned police officials, and nothing remains to be recovered from him and thus, no purpose would be served by keeping him behind the bars. Therefore, it is prayed that the present applicant be granted regular bail.

4. Learned ASC for the State, on the other hand, argues that the applicant along with his brothers i.e. co-accused Yogesh Sharma and Chetan Sharma, who were the directors of M/s Big Bull Infrastructure, had entered into an MOU with many investors in respect of an upcoming residential project, however, they had neither developed any area in question nor had returned the money of investors with interest. It is also argued that the applicant and co-accused persons were neither in possession of the said area nor they had obtained any permission from the concerned Government authorities for the construction of housing project namely 'Big Bull Ashiana' on NH-8, Jaipur. It is stated that the land which had been shown to the complainants belonged to some other builder and some other project was in progress on the said land, belonging to some other builders. It is also argued by the learned ASC for the State that the present accused is the equity shareholder of about 33% of the accused company, and that he was one of the active directors of the accused company since its inception. He is also one of the authorized



signatories of the bank account of the company, and had issued several cheques as a Director on behalf of the accused company in respect of assured returns to the victim. It is also argued that about 31 victims have been examined by the investigating agency till date, who have been cheated of amounts of more than Rs. 2.30 crores. Learned ASC also argues that the amount received from the investors was misappropriated and maximum funds were withdrawn from the accounts in the form of cash. It is further argued that the interim bail of the present accused was cancelled on 10.01.2022 and he was directed to surrender before the Court within two weeks, however, he had absconded and surrendered only after a period of about eight months. Therefore, it is prayed that the present bail application be dismissed as he may influence prosecution witnesses who are yet to be examined before the Court, if released on bail.

5. This Court has heard arguments addressed on behalf of both the parties and has perused the material available on record.

6. The record reveals that the present case is a multi-victim case. A Mediated Settlement Agreement was entered into between the co-accused Yogesh Sharma and the complainants before Delhi High Court Mediation and Conciliation Centre in the month of November, 2019, wherein co-accused Yogesh Sharma had undertaken to refund the money which the accused persons had received from the investors/complainants. This Court also notes that in order dated 25.11.2019, it was recorded that alongwith co-accused Yogesh Sharma, the present accused Satyanarayan Sharma was also present before this Court and he had also undertaken to comply with the



terms of mediated settlement agreement since he was an equal shareholder in the accused company. Pursuant to the undertaking given before this Court, co-accused Yogesh Sharma was granted bail by this Court *vide* order dated 27.11.2019. However, since he had failed to comply with the mediation settlement despite being granted several opportunities, his bail application was dismissed by this Court on 03.05.2023.

7. It is noteworthy that in addition to giving an undertaking before this Court, the present applicant had also given an undertaking before the learned Trial Court that he shall abide by the terms of the aforesaid mediated settlement agreement, and on the basis of said undertaking, he had been granted interim bail by the learned Trial Court on 19.12.2019. However, despite enjoying the benefit of interim bail for more than 02 years, the applicant had failed to abide by his undertaking and failed to fulfill the terms of mediated settlement agreement. Pursuant to the same, the interim bail granted to the applicant was cancelled by the learned Trial Court *vide* order dated 10.01.2022 and the applicant was directed to surrender within two weeks. However, the applicant even failed to comply with the said order. The record reveals that upon failure of applicant to surrender before the Court, process under Section 82 of Cr.P.C. was issued against him *vide* order dated 02.03.2022. His application seeking extension of interim bail was also dismissed *vide* order dated 04.03.2022 and thereafter, another application seeking anticipatory bail was dismissed *vide* order dated 13.04.2022 by the learned Trial Court. It is only on 12.08.2022 that the applicant had surrendered



himself before the learned Trial Court, i.e. after about 08 months from the date of passing of order by virtue of which his interim bail was cancelled. Therefore, one of the contentions that the applicant herein is ready to settle the case with the complainants is belied by his previous conduct.

8. The present case involves commission of economic offence and cheating by accused persons with multiple victims of their hard-earned money. It is not denied that the applicant herein is one of the active directors of the accused company and one of its major shareholders. The investors in this case were cheated as they were shown a plot of land, which did not belong to the accused persons and they had also not obtained permission at any point of time from the authorities concerned in respect of the development of the property, as a residential housing society, which the victims were made to believe. It is thus clear that right from the inception i.e. when the plot of land in question for the purpose of development was shown to the victims and they were induced to part with their money, the intention of the accused persons was to dupe the innocent victims. The present applicant is also the authorized signatory of the bank account of the company from which funds of the investors were misappropriated. Chargesheet in this case has already been filed and charges are yet to be framed.

9. The offence of cheating with multi-victim aspect of the case has been found to be serious in nature, and since the witnesses are yet to be examined before the learned Trial Court and the applicant has also not complied with the undertaking given before the learned Trial



Court previously, and has thus misused the interim bail granted to him for the said purpose by the learned Trial Court, this Court is not inclined to grant regular bail to the present accused/applicant, at this stage.

10. Accordingly, the present bail application stands dismissed. Pending applications also stand disposed of.

11. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JUNE 7, 2024/at