



\$~4

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

+ **BAIL APPLN. 3324/2024 & CRL.M.A. 28391/2024**

HEMANT KUMAR MISHRA

.....Petitioner

Through: Mr N Hariharan, Sr. Adv. with Mr Sharian Mukherji, Mr Aman Akhtar, Mr Arjan Mandla, Ms Vasundhara N, Mr Vinayak Gautam, Mr K.M. Dwivedi and Mr Badal Dwivedi, Advs.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms Shubhi Gupta, APP for State Inspector Mehrab Alam, Section-II/EOW Mr Pavan Narang, Mr Manish Shukla, Mr Aditya Shukla and Mr Himanshu Sethi, Advs. for complainant/victim.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

12.11.2024

%

1. This is a petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking grant of regular bail to the petitioner in FIR No. 033/2022 registered at P.S. Economic Offences Wing under sections 420/406/409 and 120-B IPC on 22.02.2022.

2. The facts are that some officers/employees of M/s. Oriental Insurance Co. Ltd. formed a society namely 'Green Residency Welfare Society' wherein the petitioner herein was the secretary. The society bought an agricultural land measuring about 22 Bighas and 05 Biswas in the revenue estate of village Bakhtawarpur, Delhi-110036 vide sale deed dated 03.07.2013. It is stated that on the said land certain flats were to be



constructed as per the requirements of the members of the society, however the same was not done.

3. The FIR No. 033/2022 was registered with P.S. Economic Offences Wing, Delhi wherein the allegations against the petitioner is that the petitioner has been siphoning off and embezzling the funds which were invested for the construction of the flats.

4. Mr Hariharan, learned senior counsel for the petitioner states that in the present case, 22 Bighas and 05 Biswas of the agricultural land has been purchased in the name of the society and the same is encumbrance free. He also states that the said land is at the disposal of the members of the society.

5. He further states that the said land can be sold and from the money realised, apportionment of the entire amount can be done amongst the members of the society on pro rata basis.

6. Mr. Narang, learned counsel appears for the complainant and has no objection if the said land is sold and the money realised from the said land can be divided among the members of the society.

7. However, learned senior counsel for the petitioner as well as learned counsel for the complainant and the State submits that in order to ensure transparency and fair play in the process of selling the land, a Local Commissioner/Observer can be appointed who can oversee the entire process of selling and apportioning the said land.

8. Mr. Sukhdev Singh, Retd. ADJ (Mobile No. 9910384661) is appointed as the Local Commissioner/Observer to take steps to sell the land measuring about 22 Bighas and 05 Biswas in the revenue estate of village Bakhtawarpur, Delhi-110036 and thereafter, apportion the sale proceeds on pro rata basis amongst all the stakeholders/members of the society.



9. The fee of the Local Commissioner/Observer is fixed at Rs. 1 lakh per month which will be paid on pro rata basis by all the members of the society including the petitioner.

10. Ms Gupta, learned APP states that at this stage, the investigation is complete *qua* the petitioner.

11. I am of the view that the petitioner has been in custody since 28.04.2024 and the investigation has been completed against the petitioner. The charge-sheet in the present case has also been filed and at this stage, the custody of the petitioner is not required.

12. For the aforesaid reasons, the petition is allowed and the petitioner is directed to be released on regular bail in FIR No. 033/2022 registered at P. S. Economic Offence Wing under sections 420/406/409/120-B IPC, subject to the following terms and conditions:

- (a) The petitioner shall furnish a personal bond in the sum of Rs. 30,000/- (Rupees Thirty Thousand Only) with 01 surety in the like amount, to the satisfaction of the concerned trial Court;
- (b) The petitioner shall not leave the country and if the petitioner has a passport, he shall surrender the same to the concerned trial Court;
- (c) The petitioner shall furnish his cellphone number to the concerned Investigating Officer on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- (d) The petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;
- (e) The petitioner or his family members/relatives/friends will not tamper with the evidence of the case in any way.



(f) In case the petitioner does not assist or cooperate in the process of selling the land in question, the complainants are at liberty to take appropriate action in accordance with law.

13. Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case.

14. The petition is disposed of accordingly.

Dasti.

JASMEET SINGH, J

NOVEMBER 12, 2024/sr

Click here to check corrigendum, if any