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

+ **BAIL APPLN. 3332/2024**

NITIN KUMAR SHARMA

.....Petitioner

Through: **Mr. R.K. Wadhwa, Mr. Ayush Singh
Sahni, Advocates.**

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Mr. Laksh Khanna, APP for State
with SI Ramchandra PS EOW, Delhi.**

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

25.10.2024

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1. By way of present application, the petitioner/applicant seeks regular bail in FIR No.180/2018 registered under Sections 406/409/420/468/471/120B IPC at P.S. EOW, New Delhi.
2. Learned counsel for the petitioner/applicant submits that the applicant has been in custody since 31.08.2023 and is seeking parity with the co-accused *Dinesh Kumar Sharma* who has already been released on regular bail vide order dated 02.12.2022 by the learned Sessions Court. While referring to the said order, he further submits that the said order came to be passed while passing stricture against the Investigating Officer for not investigating the case properly. He states that the applicant's earlier bail application came to be dismissed on 10.07.2024 as withdrawn, however, some time has passed since then and that the charges are yet to be framed.
3. The bail application is vehemently opposed by learned APP for State. He contends that the applicant's earlier bail application came to be



dismissed on 10.07.2024 by this Court after detailed arguments. He submits that the order dated 02.12.2022 passed in favour of the co-accused is not an order on the merits of the case but rather on pointing out defects in the investigation which were subsequently cured by filing supplementary challans. While reading out the said order, he submits that while passing the said order, the learned Sessions Court was concerned with the investigation not being carried out in the context of *M/s Flexpack Technologies Ltd* who was allotted the land by HSIDC. He submits that after filing of the charge-sheet, two supplementary challans have been filed and along with the present applicant, the Directors of *M/s Flexpack Technologies Ltd* has also been arrayed as an accused, without arrest. He submits that the present applicant was declared as a proclaimed offender on 07.09.2021 and was subsequently arrested by the Crime Branch on 31.08.2023. He further states that the other Director of *M/s Asian Developers* i.e. *Mr. Deepak Gusain* is in custody.

4. I have heard learned counsel for the parties and perused the material placed before me.

5. The applicant's earlier bail application was withdrawn after some arguments, considering the fact that the same was done three months ago, this Court has traversed to the merits of the case once again.

6. The present FIR came to be lodged at the instance of the home buyers who complained that they had invested certain sums of money towards purchase of the flats as advertised by *M/s Asian Developers Limited*. The present applicant is one of the Directors and the authorized signatory of the said company. The subject land was allotted by HSIDC to *M/s Flexpack Technologies Ltd* for the development of a cooperative society to serve as a



residential complex of its own employees. The development agreement was entered into between *M/s Flexpack Technologies Ltd* and *M/s Asian Developers Limited*. The latter while carrying out the construction, gave a public advertisement thereby inviting offers from the general public for allotment of flats. The said act of inducing general public to invest funds was not only contrary to the agreement between the *M/s Flexpack Technologies Ltd* and *M/s Asian Developers Limited* but was also in teeth of the allotment by HSIDC. By the aforesaid act, the general public was cheated.

7. Learned APP has stated that so far 19 victims have been identified who have received a sum of Rs.1.65 crores. Though it is stated that the said money has further travelled to *M/s Flexpack Technologies Ltd*, but the initial inducement and collection was done at the instance of the present applicant.

8. I find strength in the submissions of learned APP for State that the bail granted to the co-accused *Dinesh Kumar Sharma* is not on merits but on account of defects in the investigation, which were subsequently cured.

9. In view of the aforesaid discussion, I find no merit in the present bail application and the same is accordingly dismissed.

MANOJ KUMAR OHRI, J

OCTOBER 25, 2024/*rd*