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

\+ **BAIL APPLN. 3585/2024**

NEERAJ KUMAR GAUTAM .....Applicant

Through: Mr. K.S. Negi, Mr. Rajiv Duggal & Mr. Nikhil Rajput, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Ms. Rupali Bandhopadhya, ASC (criminal) with Mr. Abhijeet Kumar, Adv. SI Pankajj, PS GK-I.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **18.11.2024**

1. The present application is filed seeking pre-arrest bail in FIR No. 320/2023 dated 25.12.2023, registered at Police Station Greater Kailash, for offences under Sections 419/420/448/465/467/468/471/120B of the Indian Penal Code, 1860 (‘**IPC**’).

2. The FIR was registered essentially on an allegation that the accused Sonia Jain in connivance with other accused persons had forged the Sale Deed dated 08.04.2022 in her favour and tried to acquire the title and possession of the property bearing No. R/287, Greater Kailash-I, New Delhi (hereafter ‘**the property**’). It is alleged that the complainant and his siblings are the joint owners of the subject property. The Sale Deed was shown to be executed by the original owner Ms. Raj Kumari in favour of the accused Sonia Jain. It is alleged that Smt. Raj Kumari, who had allegedly executed the Sale Deed in favour of Sonia Jain, had in fact expired long back in the year 2001. It is further alleged that

the accused persons in connivance with each other had produced another lady, who impersonated herself as Raj Kumari and executed the Sale Deed.

3. The allegation against the applicant is that he stood as the sole witness in the alleged forged Sale Deed by way of which accused Sonia is claiming title in the property. It is also alleged that the applicant received ₹20,00,000/- for his complicity in the conspiracy.

4. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and he has not been named by the complainant in the FIR.

5. He submits that the applicant is only a witness to the allegedly forged sale deed and he signed the same in good faith. He submits that the applicant is not involved in the sale transaction and he is not a beneficiary of the alleged sale deed.

6. *Per contra*¸ the learned Additional Public Prosecutor (‘**APP**’) for the State opposes the grant of any relief to the applicant. He submits that specific role has been attributed to the applicant in the present case.

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

8. It is alleged that the applicant stood as a witness to the allegedly forged Sale Deed and that he received a sum of ₹20,00,000/- for his complicity in the conspiracy to grab the property.

9. It is relevant to note that the accused Sonia Jain and Sanjay Jain have already been enlarged on bail by the learned Trial Court. It was noted by the learned Trial Court that the copy of the death certificate of the erstwhile owner on record does not carry any particular apart from the name of ‘Raj Kumari’, and *prima facie*, the same cannot be thus construed to be the death

certificate of the erstwhile owner. It was also noted that no steps were taken for cancellation of the allegedly forged sale deed.

10. It is argued that the applicant was merely a witness to the allegedly forged sale deed and he is not a beneficiary of the transaction. Although it is alleged that the applicant received a sum of ₹20,00,000/- for his connivance in the conspiracy, however, at this stage, no material has been brought forth to that effect. The beneficiary of the alleged forgery in whose favour sale deed was executed has already been admitted on bail. The allegation against the applicant is to have witnessed the alleged forged sale deed.

11. While the allegations and defences will be seen during the course of the trial, at this stage, it cannot be ignored that the investigation has already been completed in the present case and the chargesheet has been filed. The Status Report mentions that the supplementary chargesheet is pending.

12. It is also relevant to note that this Court, by order dated 04.10.2024, had directed the State to not arrest the applicant subject to him joining and cooperating with the investigation. The learned APP for the State fairly submits that the applicant has since joined the investigation.

13. It is not in doubt that order for grant of bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

14. The purpose of custodial interrogation is to aid the investigation and is not punitive.

15. Thus, in the opinion of this Court, no useful purpose would be served by allowing the custodial interrogation of the applicant since he has admittedly joined the investigation.

16. Any apprehension of the applicant fleeing from justice and tampering with the evidence can be taken care of by putting appropriate conditions.

17. This Court is of the opinion that the applicant has made out a *prima facie* case for grant of bail.

18. In view of the above, it is directed that in the event of arrest, the applicant be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

a. The applicant shall join and cooperate with any further investigation, if required, as and when directed by the IO;

b. The applicants shall not contact the complainant/ witnesses or tamper with the evidence in any manner;

c. The applicant shall not leave the country without the permission of the learned Trial Court;

d. The applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;

e. The applicant shall provide the address of his residence to the IO/SHO and shall not change the same without informing the concerned IO/SHO.

19. 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.

20. It is clarified that the observations made in the present

order are only for the purpose of deciding the present bail application and shall not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

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

AMIT MAHAJAN, J

NOVEMBER 18, 2024
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