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

\+ **BAIL APPLN. 3588/2024 & CRL.M.A. 29998/2024**

KUMAR VISHESH GAUTAM .....Applicant

Through: Mr. Mohit Mathur, Sr. Adv. with Mr. Harsh Gautam, Ms. Ankita Gautam, Mr. Keshav Pratap Singh & Ms. Anchal Khanna, Advs.

versus

STATE THROUGH SHO & ANR. .....Respondents

Through: Ms. Rupali Bandhopadhya, ASC for the State along with Mr. Abhijeet Kumar, Adv.
SI Pankajj, PS GK-I.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **29.10.2024**

1. The present application is filed seeking regular 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 complaint was given by one Sonia Jain who claimed to have purchased the property bearing No. R/287, Greater Kailash-I, New Delhi (hereafter’ **the subject property**’) from one Raj Kumari. She alleged that the property has been illegally occupied by Arun Kumar Gautam and Prakash Kumar Gautam.

3. The inquiry into the complaint led to registration of the present FIR in which it was alleged that Sonia Jain in connivance with the other accused persons has in fact tried to illegally

acquire the title and the possession of the subject property. Sonia Jain had claimed title over the property by virtue of alleged Sale Deed dated 08.04.2022. 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.

4. The allegation against the applicant is that he had arranged a woman who had impersonated herself as Raj Kumari. It is alleged that the applicant had opened a bank account along with the co-accused who also impersonated herself as Raj Kumari and received the consideration amount from Sonia Jain which was thereafter withdrawn.

5. The prosecution alleged that all the accused persons, including Sonia Jain and her husband Sanjay Jain connived together and got the Sale Deed executed by someone impersonating as the original owner Raj Kumari.

6. It is claimed that Suresh Kumar Dahuja is the son of deceased Raj Kumari. It is pertinent to note that the learned Trial Court by order dated 08.04.2024 admitted accused Sanjay Jain and Sonia Jain on bail.

7. The learned Trial Court noted that the complainant Suresh Kumar Dahuja has claimed to be in possession of the mutation of the subject property in the name of the legal heirs of Raj Kumari. However, the perusal of the same reveals that the mutation was done without verification of the legal documents and same does not confer any title.

8. The learned Trial Court also noted that one copy of the death certificate issued by the hospital was produced in respect of

Smt. Raj Kumari, however, the same did not carry any particular other than the name of Raj Kumari and therefore, *prima facie*, it cannot be presumed that the death certificate issued by the concerned hospital is of the erstwhile owner of the subject property.

9. The fact that no steps have been taken for cancellation of the registered Sale Deed in favour of Sonia Jain was also taken note by the learned Trial Court.

10. In regard to the allegations that the applicant had opened a bank account with the person who had impersonated herself as Raj Kumari and had received the sum of ₹1.44 crores from Sonia Jain as consideration which was thereafter withdrawn by the applicant, the learned senior counsel for the applicant submits that the applicant is an Advocate by profession and opening an account with a client cannot be held to be an offence.

11. He further submits that the accused Sonia Jain has purchased the property by a registered Sale Deed, which has till date not been cancelled. He submits that in such circumstances, no allegations can be made that the property has been fraudulently sold. He further submits that the applicant cannot be held to be the beneficiary of the property which even as per the case of the prosecution is transferred in the name of Sonia Jain.

12. It is undisputed that the investigation has already been completed in the present case which has led to filing of the chargesheet. The applicant is in custody since 21.03.2024. The role attributed to the applicant is similar to that of co-accused Sonia Jain and Sanjay Jain that he in connivance with other accused persons forged the sale deed. As noted above, the co-accused persons Sonia Jain and Sanjay Jain have already been enlarged on bail by the learned Trial Court by order dated

08.04.2024. The role attributed to the applicant is not graver than that of the other co-accused persons who have been enlarged on bail.

13. The defence arguments, as noted above, would be tested during the course of the trial and ought not to be further commented upon at this stage when the co-accused persons have already been enlarged on bail. The benefit of the same cannot be denied to the applicant.

14. This Court is thus of the opinion that the applicant has made a *prima facie* case for grant of bail on the ground of parity.

15. In view of the above, the applicant is directed to 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 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 phones switched on at all times.

16. 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.

17. 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.

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

AMIT MAHAJAN, J

OCTOBER 29, 2024
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