



2024:DHC:1466



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

Order delivered on: February 26, 2024

+ BAIL APPLN. 518/2016, CRL.M.(BAIL) 545/2016, CRL.M.A.
6574/2022 & 25977/2022 (340 Cr.P.C.)

MANMINDER SINGH

..... Petitioner

Through: Dr. Harshvir Pratap Sharma, Sr. Adv.
with Ms. Stuti Jain, Mr. Akshu Jain,
Mr. S.K. Jain, Ms. Vishwa Bharti and
Mr. Akul Krishnan, Advocates.

versus

GOVT OF NCT DELHI

..... Respondent

Through: Mr. Ajay Vikram Singh, APP with SI
Awadesh Narayan, PS Rajinder
Nagar.
Mr. Nagendra Kumar and Ms.
Poonam Sharma, Advs. for
complainant.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

ANOOP KUMAR MENDIRATTA, J.

1. An application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner/applicant for grant of anticipatory bail in FIR No.570/2015 under Section 420 IPC registered at P.S. Rajinder Nagar, Delhi. Section 467/468/471/466/477A/34 IPC were subsequently invoked after receiving the FSL result by the prosecution.

It may be noticed at this stage itself that investigation in this case is pending since 2016 and the charge-sheet is yet to be filed.

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2. In brief, as per the case of prosecution, complainant (Jaspreet Singh Marwah) alleged that he is the lawful owner of property situated at Village Chhatarpur, Tehsil Mehrauli and had borrowed Rs.75 lacs from late Shri Dalvinder Singh (brother of petitioner/accused Manminder Singh) in the year 2003. For the security of the loan amount, he had signed and handed a Sale Deed in favour of M/s Mohindra Papers Ltd. (nominee of Dalvinder Singh). As per understanding of the parties, the Sale Deed was not registered and in order to save the stamp duty, it was prepared on old stamp papers of the year 1998 in possession of Dalvinder Singh. An amount of Rs.50 lacs is further claimed to have been re-paid against the borrowed loan amount until August, 2012 to Dalvinder Singh before he expired. Thereafter, his brother Manminder Singh (petitioner/accused) took over the control and avoided taking the balance payment (principal/interest amount) out of the loan amount of Rs.75 lacs and started interfering in the complainant's possession of the said property. M/s Nuway Organics Naturals India Ltd. is stated to be in control of M/s Mohindra Papers Ltd. after transfer of equity.

3. It is further the case of the prosecution that since the petitioner/accused claimed the aforesaid property on the basis of registered Sale Deed executed by the complainant in favour of M/s Mohindra Papers Ltd., he was directed to produce the original Sale Deed as well as Balance Sheet and Annual Returns of M/s Mohindra Papers Ltd. to prove the ownership of the property in question. Also, Shri R.P. Mahindra, earlier Director of M/s Mohindra Papers Ltd. was joined in investigation, who after looking at the copy of the Sale Deed denied his signatures and also stated that so long as he was the Director of the Company till 2002 since its



incorporation, no purchase of the said property was made in the name of M/s Mohindra Papers Ltd.

Further, during investigation, office copy of Sale Deed, as claimed to have been registered in Vol. No.1530, Addl. Book No.1 in the year 1998, along with original Peshi Register of 02.12.1998 was seized from the office of Sub-Registrar, Mehrauli, New Delhi. The same reflected that the impugned Sale Deed bearing registration No.5579 had different signatures/handwriting of the Sub-Registrar, on comparison with the preceding and succeeding documents. As such, the same was sent for forensic examination, which confirmed that the signatures of Sub-Registrar were forged. Also, the entries in the Peshi Register pertaining to registration No.5579 had been defaced beyond recognition, which reflected that there was tampering of registration.

It also came up during investigation that the stamp papers which were used for preparation of the Sale Deed were purchased from Ludhiana, Punjab for purchase of some property in 1998 by M/s Mohindra Papers Ltd. and as per Shri R.P. Mahindra, Director of the company, the same were handed over at the time of transferring shares of the company.

Contentions on behalf of the petitioner

4. Learned Senior Counsel for the petitioner/accused submits that the petitioner is a stranger to the transaction. During the period Dalvinder Singh was alive till 2012, neither any suit/proceeding was filed by the complainant, nor any FIR was initiated. The property is further stated to have been mutated in favour of M/s Nuway Organics Naturals India Ltd. since the equity of M/s Mohindra Papers Ltd. stood transferred in favour of M/s



Nuway Organics Naturals India Ltd.

It is contended that consideration for the Sale Deed dated 02.12.1998 was Rs.15,35,000/- and stamp papers for a sum of Rs.25,000/- were purchased by M/s Mohindra Papers Ltd. Also, there was a requirement under the Income Tax Act at relevant time to obtain the certificate under the said Act for the purpose of execution of Sale Deed and without the same, the Sale Deed could not have been registered by the office of Sub-Registrar in favour of M/s Mohindra Papers Ltd.

5. Attention is also drawn by learned Senior Counsel for the petitioner to an order dated 05.10.2016 passed by Hon'ble Ms.Justice Mukta Gupta in CRL.M.C.3748/2016, which was preferred on behalf of the complainant Jasmeet Singh Marwah against the orders passed by learned Metropolitan Magistrate under Section 156(3) Cr.P.C. as well as the orders passed by the learned Additional Sessions Judge, whereby the application under Section 156(3) Cr.P.C. for registration of FIR was dismissed prior to registration of present FIR.

It is pointed out by learned Senior Counsel for the petitioner that in the aforesaid order dated 05.10.2016, it was observed by this Court that the matter primarily relates to a civil dispute, which has been given the colour of criminal proceedings. It was also observed that a preliminary inquiry may be conducted in cases relating to matrimonial disputes, family disputes, commercial offences, in order to find out whether a cognizable offence is made out or not. Reference is also made to para 4 of the aforesaid order wherein reference was made to the status report filed before the learned M.M.



6. It is further urged by learned Senior Counsel for the petitioner, on instructions, that in the year 1998 or 2004, the petitioner could not have contemplated that he would be the beneficiary of any such transaction which was entered into by his brother Dalvinder Singh. Learned counsel for the petitioner also emphasizes that as per the complaint, unregistered Sale Deed had been given as a security towards a loan amount of Rs.75 lacs, out of which Rs.50 lacs is claimed to be paid back by the complainant to Dalvinder Singh in his personal capacity and not to the company. It is further urged out that possession of the property has always been with the company and the aforesaid aspect has never been challenged by the complainant prior to the year 2015.

7. Learned Senior Counsel for the petitioner further contends that custodial interrogation of the petitioner is not required since the office copy of Sale Deed has been obtained by the IO from the office of Sub-Registrar and petitioner has already joined the investigation. It is urged that since the dispute between the parties is primarily of civil nature, which has been given a criminal colour, the petitioner be released on anticipatory bail. Interim orders in this regard are stated to have been passed in the year 2016, though investigation is pending till date. Reliance is further placed upon *Dheeraj Bhadviya v. State of Rajasthan and Anr. (2022) 6 SCC 63* and *Bir Bajrang Kumar v. State of Bihar, AIR 1987 SC 1345*.

Contentions on behalf of the complainant learned APP for the State

8. On the other hand, application is vehemently opposed by learned APP for the State assisted by learned counsel for the complainant.

Learned counsel for the complainant Jasmeet Singh Marwah submits



that Dalvinder Singh Narang (brother of accused) had business relations with the complainant and an unregistered Sale Deed in the year 2003 was handed over which was executed on stamp papers purchased in the year 1998 in favour of M/s Mohindra Papers Ltd. as a security towards financial transaction. It is his case that the aforesaid unregistered Sale Deed dated 02.12.1998, which was handed over to Dalvinder Singh has been wrongly shown as a registered Sale Deed vide registration No.5579 on 02.12.1998 in Addl. Book No.1.

9. It is further contended that office copy of Sale Deed bearing registration No.5579 Addl. Book No.1 is forged and fabricated since the signatures of the Sub-Registrar on the said Sale Deed did not match with preceding registration No.5578 and succeeding registration No.5580 registered in the office of Sub-Registrar on 02.12.1998. Also, the registration with reference to entry No.5579 in the Peshi Register pertaining to 02.12.1998 was tampered and defaced beyond recognition.

10. It is further submitted by learned counsel for the complainant that the Balance Sheet for the year 1996-1997 as well as for the year 2001 of M/s Mohindra Papers Ltd. reflects an amount of Rs.21,89,000/- as valuation for 'land asset' without any change. Further, in case any such land had been purchased in the year 1998, the valuation of 'land asset' would have been consequently changed. It is admitted that the complainant had also filed a Civil Suit in this regard and the same is pending consideration before the Civil Court. It is urged that Shri R.P. Mahindra, then Director in M/s Mohindra Papers Ltd. stated during investigation that no such property had been purchased in the name of said company till 2002.



11. Learned APP for the State in support of the contentions made by learned counsel for the complainant submits that custodial interrogation of the petitioner is required since the petitioner has not cooperated in investigation. It is further pointed out that though FIR was lodged under Section 420 IPC, but subsequently, Sections 466/467/468/471/477A IPC have also been invoked. Learned APP further submits that the petitioner is also facing investigation/trial in two other FIRs i.e. 396/2016 under Section 420/406 IPC, PS: Ambala Cantt. and FIR No.43/2017, under Section 420/506 IPC, PS Sadar Rajpura, District Patiala.

12. I have given considered thought to the contentions raised.

As per the case of the complainant, an unregistered Sale Deed was given as security against a financial loan of Rs.75 lacs by the complainant to Davlinder Singh, against which an amount of Rs.50 lacs is stated to have been paid to Dalvinder Singh, which is disputed by the petitioner. Admittedly, the petitioner had only come in picture after the death of his brother Dalvinder Singh in 2012, who was dealing with the complainant as well as affairs of the company (M/s Mohindra Papers Ltd.). Though the registration of Sale Deed in the office of Sub-Registrar *prima facie* appears to be forged in the light of FSL report and investigation, but it still needs to be brought out in investigation if the same happened during the lifetime of Dalvinder Singh or at a later point of time after his death in 2012 when petitioner came into control of the property. Petitioner has been on interim protection in the present case since 2016 and also joined investigation on several occasions though the prosecution contends that he has not cooperated in the same. The matter is also under consideration in the Civil Suit



preferred on behalf of the complainant.

In the facts and circumstances, since the petitioner is on interim protection since 2016 and has joined the investigation, in the event of arrest, he be admitted to bail on furnishing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac Only) with one surety in the like amount to the satisfaction of IO/SHO and subject to following conditions:

- (i) That transfer of the aforesaid property shall not be effected in any manner during the pendency of the proceedings/trial on the basis of the said Sale Deed.
- (ii) Petitioner shall join the investigation as and when directed by the IO.

Application is accordingly disposed of. Pending applications, if any, also stand disposed of.

(ANOOP KUMAR MENDIRATTA)
JUDGE

FEBRUARY 26, 2024/sd