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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4245/2024**

TIRATH RAJ SINGH

.....Applicant

Through: Mr. Rabindra Singh & Ms.
Ekta Singh, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for
the State
SI Nitin Kumar, PS- Harsh
Vihar

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **21.11.2024**

CRL.M.A. 34796/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed seeking grant of pre-arrest bail in FIR No. 118/2020 dated 07.03.2020 registered at Police Station Harsh Vihar for offences under Sections 420/506/34 of the Indian Penal Code, 1860.
4. The FIR was registered on a complaint that the applicant and his wife had forged the documents of the property belonging to the complainant.
5. It is alleged that the property bearing number H. No. 1171, Gali No. 16, Harijan Basti, Mandoli Extension, Delhi-110093 measuring 50 sq. yds. (hereafter '**the subject property**') was bought by one, Shri Babu Lal who is husband of the complainant.
6. It is alleged that the applicant and his family used to live in

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the subject property on a verbal commission from Babu Lal. It is alleged that after the demise of Babu Lal, the applicant and his wife, Maya Devi attempted to sell the subject property without any prior information to the complainant.

7. It is the case of the complainant that when she objected to such sale, accused Maya Devi and the applicant threatened the complainant of dire consequences. Subsequently, on 17.03.2018, the complainant filed a civil suit against accused Maya Devi and the applicant seeking vacation of the subject property. It is alleged that thereafter, the complainant learnt that accused Maya Devi and the applicant in connivance with other accused persons fraudulently prepared a General Power of Attorney ('GPA'), Sale Deed, Will, Receipt and Possession letter dated 17.01.2012 in the name of Maya Devi.

8. It is alleged that Maya Devi and the applicant also forged the signature and thumb impression of Babu Lal on the said documents. It is alleged that thereafter the applicant along with accused Maya Devi also threatened the complainant and demanded a sum of ₹3,00,000/- from the complainant as a ground to vacate the subject property which led to the registration of the subject FIR.

9. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that a civil suit in relation to the documents in the present case and the question whether the said documents have been forged or not is already pending adjudication.

10. He submits that the applicant is neither a party nor a witness to any of the documents so alleged to have been forged.

11. He submits that the beneficiary of the alleged forgery is his wife who has already been admitted on bail.



12. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that on 21.04.2023, the wife of the applicant produced the original GPA, agreement to sell, receipt, will, possession letter allegedly executed by Babu Lal in favour of Maya Devi in relation to the subject property. He submits that the said documents were sent along with an admitted thumb impression received from Indane Company, where Babu Lal had applied for Gas connection. He submits that the FSL report clearly demonstrates that the documents have been forged.

13. The law in regard to the grant of pre-arrest bail is well-settled. In the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra : (2011) 1 SCC 694***, the Hon'ble Supreme Court dealt with the issue of pre-arrest bail, and the balance that needs to be maintained while granting the same to an accused and further laid down the factors that must be taken into consideration while dealing with pre-arrest bail and held as under:

“...112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

iii. The possibility of the applicant to flee from justice;

iv. The possibility of the accused's likelihood to repeat similar or the other offences.

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

vii. The courts must evaluate the entire available material against the accused very carefully. The court must also



clearly comprehend the exonerations of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail...”

14. The present case relates to the forgery of the documents in relation to the subject property. During the course of the investigation, on 21.04.2023, accused Maya Devi produced the original GPA, agreement to sell, receipt, will, possession letter allegedly executed by Babu Lal in her favour on 17.01.2012 in relation to the subject property. It is the case of the prosecution that in order to verify the thumb/finger impression on the documents, the said documents along with the admitted documents bearing the thumb/finger impression of Babu Lal so received from Indane company were sent for FSL examination. In accordance with the FSL report, the thumb/finger impression on the documents in relation to the subject property were found to be forged.

15. It is the case of the prosecution that the applicant, during the course of interrogation, handed over the photo state copy of the electricity connection and water supply connection. However, the applicant failed to disclose the name and address of the



notary holder who notarised the documents. It is further the case of the prosecution that the applicant, during interrogation, disclosed that the documents of the property were executed with the help of a middleman, however, the applicant failed to disclose the name or information of the middleman.

16. From a perusal of the record and the FSL Report, it is apparent that the documents in relation to the subject property have been forged. Considering the material on record, it cannot be held, at this stage, that the investigation is being carried out with the intention to injure or humiliate the applicant. The nature and the gravity of the allegations are serious, and *prima facie* discloses the commission of forgery. In view of the above, in the present circumstances, this Court is of the opinion that custodial interrogation of the applicant ought not to be denied to the investigating authority.

17. The applicant had filed an application seeking pre-arrest bail before the learned Court of Sessions, which was dismissed by order dated 30.07.2024. It appears that the wife of the applicant was thereafter granted pre-arrest bail by order dated 03.10.2024 passed by the learned Court of Sessions. It is relevant to note that the bail applications were heard by the different Presiding Officers.

18. The applicant, after the order dated 03.10.2024 pursuant to which his wife was granted the benefit of pre-arrest bail, filed another application seeking pre-arrest bail. The same, unfortunately for the applicant, was listed before the same Presiding Officer, who on the earlier occasion, dismissed the bail application filed by the applicant. The applicant, on 06.11.2024 when the matter was listed before the learned Court of Sessions, withdrew that application. The applicant thereafter filed the



present bail application.

19. Undoubtedly, the beneficiary of the documents alleged to have been forged is the wife of the applicant. It, however, cannot be denied that the applicant along with his wife is in possession of the subject property and the deceased Babu Lal whose thumb impression and signatures are alleged to have been forged was the brother of the applicant.

20. The allegation, thus, is that the applicant along with his wife is trying to grab the property belonging to his deceased brother Babu Lal.

21. The FSL report, at this stage, indicates *prima facie* that the documents were in fact forged.

22. The investigation conducted thus, so far does not indicate that the applicant is sought to be falsely implicated. The material presented by the prosecution establishes a *prima facie* involvement of the applicant.

23. Considering the aforesaid discussion, this Court is of the opinion that the applicant has not made out a *prima facie* case for grant of pre-arrest bail.

24. The present application is accordingly dismissed.

25. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

NOVEMBER 21, 2024/“SS”