



2025:DHC:220



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

% ***Date of decision: 13th January, 2025***

+ **CRL.M.C. 2872/2018**

DILIP PURI

S/o Shri Suresh Puri,
R/o C-30, First Floor, Khasra No. 279,
Vishwakarma Colony, Pul Prahladpur,
M.B. Road, New Delhi-110014

.....Petitioner

Through: Mr. Mohan Lal Sharma & Mr.
Subodh Kumar Pandey, Advocates
with Petitioner in person.

versus

1. **STATE**

N.C.T. of Delhi,
Through Standing Counsel,
High Court of Delhi,
New Delhi

.....Respondent No. 1

2. **AMITOJ SINGH**

S/o Late Shri Alamgir Singh,
R/o B-15, Second Floor,
Jungpura Extension,
New Delhi-110014

.....Respondent No. 2

3. **SURJIT KAUR**

S/o (sic.) Late Shri Alamgir Singh,
R/o B-15, Second Floor,
Jungpura Extension,
New Delhi-110014

.....Respondent No. 3

4. **ADARSH SINGH**



2025:DHC:220



S/o Late Shri Alamgir Singh,
R/o C-310, First Floor,
Defence Colony,
New Delhi-110014

.....Respondent No. 4

Through: Mr. Sanjeev Sabharwal, APP for
State.
S.I. Deepak Sahu P.S. Pul Prahladpur,
Delhi.
Mr. Shivam Wadhwa, Advocate for
Complainant.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CRL.M.A. 32068/2024 (u/S 528 Bharatiya Nagarik Suraksha Sanhita, 2023)

1. The present Application has been filed on behalf of the Petitioner against the Order dated 02.09.2024 *vide* which the Petition has been dismissed in default for non-appearance of the counsel for the Petitioner.
2. For the reasons and grounds stated in the Application, the Application is allowed and the Petition is restored to its original number.
3. The Application is disposed of accordingly.

CRL.M.C. 2872/2018

4. The present Petition under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the Petitioner against the Order dated 27.04.2018 *vide* which the learned Additional Sessions Judge has cancelled the Bail granted to the Petitioner *vide* Order dated 28.11.2017 in FIR No. 219/2016 under Section



2025:DHC:220



420/467/468/471/120B of the Indian Penal Code, 1860 (*hereinafter referred to as “IPC, 1860”*) registered at Police Station Pul Prahladpur, Delhi.

5. It is submitted in the Petition that the Petitioner had purchased the Property bearing No. C-30, Khasra No. 279, Vishwakarma Colony, Pul Prahladpur, Delhi, Upper Ground Floor and First Floor (*hereinafter referred to as the “subject property”*) from Shri Alamgir Singh on the basis of the General Power of Attorney, Agreement to Sell, Receipt-cum-Possess Letter, Will, Affidavit etc., all dated 30.01.2014 executed by Shri Alamgir Singh in favour of the Petitioner for a total consideration of Rs. 31,50,000/- and the possession was handed over to the Petitioner on 09.01.2015, since when, the Petitioner has been in exclusive uninterrupted and settled possession of the subject property.

6. However, the Petitioner was forcibly, fraudulently and illegally dispossessed from the subject property on 13.01.2016 by the Respondent Nos. 2 to 4, the two sons and wife of Late Shri Alamgir Singh.

7. On the complaint of the Petitioner, the FIR No. 9/2016 under Sections 354/323/506/509/34 of the IPC, 1860 registered at Police Station Pul Prahladpur, Delhi against the Respondent Nos. 2 to 4 and their associates. However, they also in connivance with the Police, on the same day got a cross FIR No. 10/2016 under Sections 354/323/34 of IPC, 1860 registered at Police Station Pul Prahladpur, Delhi against the Petitioner and his wife.

8. It is submitted that the Civil Suit bearing No. 24/2016 dated 29.01.2016 had been filed on behalf of the Petitioner against the Respondent Nos. 2 to 4 seeking Permanent Injunction, but the same was withdrawn with liberty to file a fresh Suit.



9. Thereafter, on 09.02.2016, the Civil Suit bearing No. 207066/2016 was filed on behalf of the Respondent Nos. 2 to 4 against the Petitioner seeking Declaration, Possession, Permanent Injunction and Damages, which is pending adjudication.

10. It is submitted that the Respondent Nos. 2 to 4 filed a Complaint Case under Section 156(3) of Cr.P.C., 1973 on 11.04.2016, on which the present FIR No. 219/2016 under Sections 404/405/441/442/467/4685/471/420/120B of IPC, 1860 registered at Polices Station Pul Prahladpur, Delhi. The Petitioner was arrested in the said FIR on 28.11.2017 and was admitted to bail by the learned Metropolitan Magistrate *vide* Order dated 30.11.2017.

11. Thereafter, an Application under Section 439(2) of Cr.P.C., 1973 was filed on behalf of the Respondent Nos. 2 to 4 before the learned Additional Sessions Judge, seeking cancellation of the Bail granted to the Petitioner and the said Application was allowed without considering the contentions of the Petitioner, *vide* the impugned Order dated 27.04.2018 directing the arrest of the Petitioner.

12. The impugned Order dated 27.04.2018 cancelling the Bail of the Petitioner has been challenged on behalf of the Petitioner on the ground that the learned Metropolitan Magistrate had granted Bail to the Petitioner after hearing both the parties and considering the relevant material, including the allegations made and also allegations under Section 467 of IPC, 1860 (which though was formally added subsequently), and also the CFSL Report which had been received by then. In any case, the CFSL Report is an opinion evidence and cannot be a ground for cancellation of the Bail. During the course of arguments, no Police custody of the Petitioner had been



demanded.

13. Furthermore, the Petitioner and the other co-accused persons had cooperated with the Investigating Officer during the investigations and no material fact had been concealed.

14. It is submitted that the two co-accused, Amit Kumar and Rupa Mukerjee had been granted Anticipatory Bail under Section 438 of Cr.P.C., 1973 by the learned Additional Sessions Judge *vide* Order dated 18.12.2017.

15. The impugned Order has also been challenged on the ground that the Reply and the arguments of the Petitioner had not been considered while passing the impugned Order.

16. It is also claimed that the Respondent Nos. 2 to 4 have set the criminal law in motion and got the FIR registered only to pressurize, torture and harass the Petitioner. Also, it has not been appreciated that the dispute *inter se* the parties is purely of civil nature, in respect of which, the Civil Suits are pending. It is evident from the fact that aside from multiple civil litigations, the Petitioner's Suit under Section 6 of the Specific Relief Act seeking Restoration of the Possession is pending adjudication.

It is submitted that there was no ground for cancellation of the Bail granted to the Petitioner *vide* Order dated 28.11.2017.

17. It is submitted that the judgments relied upon by the Respondents in Rohit Bansal vs. State, decided *vide* CRL.M.C. 844/2018 by the Co-ordinate Bench of this Court on 31.05.2017, Kanwar Singh Meena vs. State of Rajasthan & Anr., AIR 2013 SC 296 and State vs. Sumeet Suri & Ors., 2012 (4) JCC 2281, are not applicable to the facts of the present case.

18. It is, therefore, submitted that the impugned Order cancelling the Bail



2025:DHC:220



granted to the Petitioner is liable to be set aside.

19. **The Status Report** was handed over today in the Court on behalf of the State, wherein it is submitted that the Bail was granted initially to the Petitioner after registration of FIR. However, subsequently, it was found that the documents have been forged and consequently, Sections 467/468 of IPC, 1860 have been added, for which the custodial interrogation of the Petitioner was required.

20. It is further submitted that the learned Additional Sessions Judge has rightly appreciated not only the gravity of the offences that have been added subsequently, but also that further investigations are required to be carried out. Furthermore, it has been overlooked by the learned Metropolitan Magistrate that the Petitioner's custodial interrogation may be required for unearthing the conspiracy and to trace the Notary Public which had attested the forged documents. The learned Metropolitan Magistrate had failed to consider that there was enough evidence showing the involvement of the Petitioner in the commission of the offence of forgery, cheating and using forged documents.

21. Therefore, the impugned Order does not suffer from any infirmity and the present Petition is liable to be dismissed.

22. **Submissions heard and the record perused.**

23. The main grounds of seeking cancellation of the Bail of the Petitioner granted *vide* Order dated 28.11.2017 by the learned Metropolitan Magistrate that were agitated by the Prosecution before the learned Additional Sessions Judge, were that the Bail to the other accused persons had been granted before the CFSL Report was received. Furthermore, the gravity of the



offence under Section 467 of IPC, 1860 was not considered by the learned Metropolitan Magistrate and that the requisite documents sought to be placed on record by the Complainant were disregarded. The forged documents are in respect of the subject property which is valued for more than Rs. 2,00,00,000/-. The offence under Section 467 of IPC, 1860 is punishable upto life imprisonment. The Report obtained from Truth Labs and also from Forensic Science Lab (FSL), Rohini, Delhi that the signatures that are appended on the sale documents are not that of Late Shri Alamgir Singh.

24. Pertinently, the Bail had been granted to the Petitioner by the learned Metropolitan Magistrate on 18.11.2017. It cannot be overlooked that the allegations essentially are that the documents of sale, namely, General Power of Attorney, Agreement to Sell, Receipt-cum-Possess Letter, Will, Affidavit etc., all dated 30.01.2014 executed by Late Shri Alamgir Singh, the Predecessor-in-Interest and further that his signatures have been forged on these documents.

25. It is also not in dispute that there are multiple Civil Suits which have been instituted by the Respondent Nos. 2 to 4 as well as by the Petitioner against one another.

26. After the bail was granted to the Petitioner, there is no averment that the Petitioner has failed to join the investigations.

27. Furthermore, no Application seeking custodial interrogation of the Petitioner was ever filed. Even before the learned Additional Sessions Judge what was stated, was that the custodial interrogation of the Petitioner may be required. The Respondent-State had also claimed that the Notary



2025:DHC:220



Public, which had allegedly notarized the disputed documents, is required to be traced.

28. Pertinently, the Chargesheet had been filed against the Petitioner and he has been facing trial for the last about six years. There is no averment or allegation made that there was ever any misuse of the Bail by the Petitioner. Even during the arguments, the Respondent-State has not been able to explain the circumstances for cancellation of the Bail.

29. The alleged need for custodial interrogation or for collecting the other evidence has become immaterial today, since the Chargesheet has already been filed by the Police.

30. Also, the gravity and the nature of offence cannot be re-appreciated at the time of cancellation of the Bail, especially when it has been noticed that the allegations of the alleged forgery were also placed before the learned Metropolitan Magistrate, while the Order on Bail was made.

31. In view of above, the present Petition is allowed and the impugned Order dated 27.04.2018 of Ld. ASJ, is hereby set aside and the the Order dated 28.11.2017 *vide* which the Petitioner was admitted to Bail by the learned Metropolitan Magistrate, is restored.

32. Accordingly, the Petition is disposed of in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 13, 2025

S.Sharma