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

\+ BAIL APPLN. 3421/2024

SACHIN JAIN .....Petitioner

Through: Ms. Adviteeya and Mr. Nishant Sharma, Advocates.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Amit Ahlawat, APP with Ms. Shehnaz Khan, Advocate.
Insp. Pramod Kumar, SI Vishvendra Singh, PS: Mayur Vihar Delhi and SI Manoj Kr. Tomar, North Dist. Delhi.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% **03.03.2025**

1. At the outset, it is pertinent to note that despite the directions issued by this Court on 7th February, 2025, the concerned SHO has failed to appear. The Investigating Officer, Mr. Pramod Kumar, who is present in Court, states that the SHO is on leave. The concerned IO, SI Manoj Kumar, is present. When questioned by the Court regarding his absence on the previous date of hearing, he submits that no intimation was received from the concerned wing. Accordingly, the SHO is directed to file a status report supported by an affidavit explaining as to why the concerned IO was not present on 7th February, 2025 and why intimation regarding the hearing was not provided to him.

2. Notwithstanding the above lapse, considering the urgency involved, the Court has proceeded to hear the matter.

3. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] (formerly Section 439 of the Code of Criminal Procedure, 1973[2]) seeks regular bail in proceedings arising from FIR No. 170/2023 registered under Sections 420/467/468/471/120B/380/448 of the Indian Penal Code, 1860[3] at P.S. Mayur Vihar Phase-1. Subsequently, a chargesheet has also been filed and the Applicant has been charged under the aforesaid provisions.

4. Briefly, the case of the prosecution is as follows:

4.1. The present FIR was registered on the complaint of Dr. Manoj Kumar Mandal s/o Mr. Manoranjan Mandal against the Applicant and nine other individuals, alleging cheating, forgery, criminal trespass, and conspiracy. The Complainant contends that he is the rightful owner of Flat No. 197F, Second Floor, Pocket-IV, Mayur Vihar Phase-1, Delhi,[4] which was unlawfully occupied by certain individuals claiming ownership through forged documents.

4.2. According to the Complainant, in 2001, the Delhi Development Authority[5] allotted the subject property to the Complainant through File No. M 336(175)2001/AAY/MY and the demand was raised *vide* demand letter No. 4135. In compliance, the Complainant deposited the entire amount, and a Certificate of Allotment dated 10th June, 2015 was issued in his favour. On 7th September 2015, he took possession of the flat from the DDA through a

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[1] "BNSS"
[2] "Cr.P.C."
[3] "IPC"
[4] "the subject property"

Possession Slip, and subsequently, on 26th February, 2016, a Conveyance Deed was executed in his favour by POI (DDA), before the Sub-Registrar.

4.3. In March, 2016, the Complainant relocated to his native place in Kolkata due to family reasons and was unable to return to Delhi. Owing to his sudden departure, he left various household articles and some cash in the flat. In July, 2022, the Complainant's brother visited Delhi for his son's admission to IIT Delhi. The Applicant, who was known to the Complainant, handed over the flat keys to him for temporary stay. However, upon arrival, the Complainant's brother discovered that Ms. Kumkum Agrawal and Mr. Om Prakash Agrawal were in possession of the flat.

4.4. When questioned, Ms. Kumkum Agrawal and Mr. Om Prakash Agrawal produced a series of documents to justify their possession, which the Complainant contends were forged. These documents include:

(i) GPA dated 25th July, 2018 purportedly executed by Mr. Manoj Kumar Mandal s/o Mr. Vijay Kumar Mandal in favour of Mr. Sachin Jain (the Applicant), with Mr. Atul and Mr. Akhtar Khan as witnesses;

(ii) GPA dated 14th September, 2018 purportedly executed by Mr. Sachin Jain in favour of Ms. Kumkum Agrawal, with Mr. Sonu Kumar Singh and Mr. Danish as witnesses;

(iii) Sale Deed dated 7th January, 2019 purportedly executed by Mr. Manoj Kumar Mandal s/o Mr. Vijay Kumar Mandal in favour of Ms. Kumkum Agrawal, with Mr. Danish and Mr. Afsar as witnesses.

4.5. On 31st July, 2022, the Complainant returned to Delhi and confronted Ms. Kumkum Agrawal and Mr. Om Prakash Agrawal regarding his ownership of the flat. However, instead of vacating the property, they

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[5] "DDA"

allegedly threatened him with dire consequences. Consequently, the Complainant lodged a police complaint and later moved an application under Section 156(3) of the Cr.P.C. before the Court. Based on these allegations, the present FIR was registered.

4.6. During the investigation, it was revealed that the Applicant and his associates conspired to forge property documents to unlawfully claim ownership of the flat. The Applicant allegedly admitted that he had obtained details of Dr. Manoj Kumar Mandal (the rightful owner) and the flat's documentation from DDA with the assistance of one Mr. Tarun Babbar. Further, the Applicant engaged an impersonator, through Mr. Akhtar Khan @ Pappy, to fraudulently represent himself as the Complainant. To facilitate this impersonation, a fake Aadhaar Card was allegedly created in the name of Mr. Manoj Kumar Mandal s/o Mr. Vijay Kumar Mandal. The investigation also revealed that the sale proceeds from the unlawful transaction of the subject property were utilized by the Applicant to purchase a plot in the Yamuna Expressway Industrial Development Authority[6] and accordingly, notice under Section 91 of Cr.P.C. was issued to YEIDA.

5. Against the above background, the Applicant asserts that he has been falsely implicated and seeks bail on the following grounds:

5.1. The Applicant was unaware of the actual ownership status of the subject property until the registration of the present FIR. Prior to this, he had no knowledge that the property had been originally allotted to Dr. Manoj Kumar Mandal s/o Mr. Manoranjan Mandal. He was allegedly misled into believing that the co-accused, Mr. Manoj Kumar Mandal s/o Mr. Vijay

Kumar Mandal, was the same individual as the actual allottee. As a result, the Applicant himself was deceived and defrauded. There was no element of deception, *mens rea*, or inducement on his part. Rather, he was merely a *bona fide* purchaser who acted in good faith. At best, he contends that he is a witness to the fraudulent transaction rather than a perpetrator of the offence.

5.2. There is no evidence to establish that the Applicant was directly involved in the commission of forgery under Sections 467/464/471 of IPC. He asserts that he had no role in fabricating any document and merely obtained a GPA from an individual who represented himself as the rightful owner of the property. The Applicant had no reason to doubt the authenticity of the transaction at the time. Furthermore, the co-accused, Mr. Manoj Kumar Mandal s/o Mr. Vijay Kumar Mandal, later executed a sale deed in favour of Ms. Kumkum Agrawal. Thus, the Applicant contends that there was no act of forgery committed by him, and he had no involvement in the creation or use of forged documents.

6. On the other hand, Mr. Amit Ahlawat, APP for the State, opposes the bail application, arguing that the Applicant, in collusion with the co-accused, orchestrated a fraudulent scheme to forge public documents. The investigation has revealed that a GPA was initially executed by Mr. Manoj Kumar Mandal s/o Mr. Vijay Kumar Mandal in favour of the Applicant, who then transferred his purported rights through another GPA to Ms. Kumkum Agrawal. However, official records obtained from the Sub-Registrar's Office confirm that the legitimate Conveyance Deed was executed in favour of Dr. Manoj Kumar Mandal s/o Mr. Manoranjan Mandal, not Mr. Manoj Kumar Mandal s/o Mr. Vijay Kumar Mandal.

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[6] "YEIDA"

Furthermore, the Applicant was the primary financial beneficiary of the transaction, having received approximately INR 54 lakhs from Kumkum Agrawal—of which INR 24 lakhs were deposited into his bank account, while INR 30 lakhs were paid in cash. Given the gravity of the alleged offences, which involve the fabrication of public records and misappropriation of property, the prosecution asserts that the Applicant does not deserve the discretionary relief of bail. The State also expresses concerns that if released, the Applicant may evade legal proceedings or fail to adhere to bail conditions.

7. The Court has considered the facts and the submissions advanced. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.[7]

8. The investigation has been completed, and a chargesheet has already been filed. As per the latest Nominal Roll dated 27th February, 2025, the Applicant has remained in judicial custody for a period of 1 year, 9 month and 12 days. The prosecution's case is primarily based on documentary evidence, which has been collected and placed on record along with the chargesheet. No further custodial interrogation of the Applicant is required at this stage.

9. The documents alleged to be forged, including the GPA and Sale Deed, are all registered instruments. The Applicant argues that the transactions in question involved a chain of documentation, wherein the sale

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[7] See also: ***Sanjay Chandra v. CBI***, (2012) 1 SCC 40; ***Satender Kumar Antil v. Central Bureau of Investigation***, (2022) 10 SCC 51.

of the subject property was executed firstly through a GPA and subsequently by a direct sale transaction between Mr. Manoj Kumar Mandal s/o Mr. Vijay Kumar Mandal and Ms. Kumkum Agrawal. Whether these transactions constitute forgery, conspiracy, or cheating would necessarily require a detailed examination of the documents and the role played by each accused during the trial.

10. Moreover, the financial transactions linked to the alleged offence, particularly the sum of INR 54 lakhs purportedly received by the Applicant, require factual determination based on evidence to be led by the parties during trial. The extent of the Applicant's involvement and the legitimacy of these transactions can only be established through evidence that shall be adduced by parties during trial.

11. In view of the above, and given that no further custodial interrogation of the Applicant is required, prolonging his detention at this stage would serve no investigative purpose.

12. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty 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 country without the permission of the Trial Court;

c. The Applicant shall appear before the 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 phone switched on at all times.

13. 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.

14. 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.

15. The bail application is allowed in the afore-mentioned terms.

16. Copy of the order be sent to the concerned SHO for compliance with the directions issued in paragraph No. 1 of the order.

SANJEEV NARULA, J

MARCH 3, 2025/*d.negi*