



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

%

Reserved on : 17.05.2023

Pronounced on : 14.07.2023

+ **BAIL APPLN. 1571/2023**

RAKESH KUMAR

..... Petitioner

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Harsh Kumar, Mr. Manubhan
Anand and Ms. Riya Gulati,
Advocates.

versus

STATE (GNCTD)

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State.
Ms. Nandani Sahni and Mr. Gaurav
Mahajan, Advocates for Complainant.

**CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR**

ORDER

RAJNISH BHATNAGAR, J.

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 283/2023 under Sections 420/467/468/471/447/448/120B/34 IPC registered at Police Station Jyoti Nagar.
2. In brief the facts of the case, as asserted by the prosecution, are that complainants are the true and legal owners of the property in question i.e. C-132 (Old Number. C-143) Plot No. 1-2, Amar Colony, Block C, East Gokul Pur, Delhi total land measuring 345 sq yards. It



is alleged that complainant, namely, Jiten Mahajan became the owner of the said property vide GPA executed in his favor by his father, namely, Sukhdev Raj Mahajan, for property bearing no. C-132 admeasuring 240 sq yards, Plot No. 1-2, Khasra No. 796/705/2, Block C, Amar Colony, East Gokul Pur. It is further alleged that a gift deed and also a possession letter/Will in respect of said property had been executed in favor of the complainant by his father. The said GPA dated 18.09.2019 had been registered at office of Sub Registrar Vivek Vihar, New Delhi vide Register no. 1774, Book No. 4, Volume No. 266. It is further alleged that complainant, namely, Jai Prakash Pal is claiming ownership of another 105 sq yards of the said property bearing no. C-132, through his daughter Sarita, who purchased the same vide GPA and agreement to sell dated 12.09.2001. The GPA in favour of Jai Prakash Pal from his daughter Sarita is also stated to be registered at the office of Sub Registrar, Vivek Vihar, New Delhi vide Register No. 1775, Book No. 4, Volume No. 266

3. It is alleged by the complainants that the complainants came to know that the accused, along with his associates, were trying to disturb the possession of complainants and had occupied the property in question. The matter was reported and consequently present case FIR No. 283/2023 was registered.

4. It is submitted by the learned senior counsel for the petitioner that the petitioner has been falsely implicated in the present case. It is further submitted by him that the petitioner was the true and lawful owner of the property in question total admeasuring 345 sq yards till



29.12.2022 when he sold the said property to persons namely Sudheer Kumar, Saurabh Kumar, Rajesh Kumar and Mahinder Pal Singh vide Sale Deed dated 29.12.2022. It is further submitted that the petitioner had purchased the said property in question from one Rewati Dass and Prem Raj vide Agreement to Sell dated 30.05.1989 and one possession letter of the same date. It is further submitted by him that on 20.11.2022, while petitioner was getting construction work done on the property in question, complainant, namely, Jiten Mahajan along with his associates came to the property and started assaulting the petitioner and tried to take possession of the said property. It is further submitted that the said complainant and his associates have also prepared forged documents for claiming ownership of the property in question and has filed the present FIR by concealing the material facts and documents from the investigating agency. It is further submitted that complainant filed a false and frivolous civil suit before this Hon'ble Court by concealing material facts, in particular the fact that the property already stood sold to the third party vide registered Sale Deed dated 29.12.2022. It is further submitted by him that since no case as alleged is made out against the petitioner and that the allegations being based on documentary evidence, no custodial interrogation of petitioner is necessary. It is further submitted that the petitioner is ready to join the investigation and will appear before the IO as and when required. It is further submitted that investigating agency, in connivance with complainants, has added Section 467 IPC to the present FIR merely to make the allegations graver in nature. It



is further submitted that the other alleged offences, apart from Section 467 IPC, being punishable with a maximum imprisonment of 7 years, are covered by the judgment passed by The Hon'ble Supreme Court in *Arnesh Kumar Vs. State of Bihar*, entitling the petitioner to be granted bail.

5. On the other hand, it is submitted by the learned APP for the state assisted by the learned counsel for the complainant that the accused prepared a false GPA and on the basis of said forged document moved an application before DDA for an 'NOC. It is further submitted that when the above mentioned application was dismissed, the accused prepared a forged 'NOC' and got the property in question registered at the office of Sub Registrar and consequently, sold the same to four other persons. It is further submitted that during investigation, the said Sale Deed dated 29.12.2022 was found to be sham and farce as no money trail has been found consequent to the execution of the said Sale Deed. It is further submitted that allegations against the accused are highly serious in nature and his thorough investigation and custodial interrogation is required. It is submitted by learned counsel for the complainant that the complainant had filed a civil suit before this Court and the DDA was added one of the defendants in the said suit and the counsel for the DDA who appeared in the said civil suit had stated that the conveyance deed dated 03.11.2022 on the basis of which the applicant has asserted his rights in respect of the property in question is a forged document.

6. I have heard the learned senior counsel for the petitioner,



learned APP for the State as well as learned counsel for the complainant.

7. At the outset, it may be made clear that there is no dispute with regard to the identification of the property in question, though during the course of the arguments learned senior counsel for the petitioner had argued that the Khasra Nos. are different and the properties are different properties. But even as per the documents filed by the petitioner the properties in question are the same for which the present FIR has been registered against the petitioner.

8. According to the petitioner, the property in question was sold by him on 29.12.2022 to four persons by way of sale deed for a consideration of Rs. 1,65,00,000/- but the petitioner has not even placed a single document on record in regard to this money transaction and has even failed to submit as to how this amount was paid to him by the buyers of the property in question.

9. The complainant in the instant case had filed a civil suit in this Court and had made DDA a party as Defendant no. 2 in the said suit and the counsel for the DDA had informed the Court that conveyance deed dated 03.11.2022 is a forged document. The petitioner thereafter on the strength of this conveyance deed had sold the property against registered sale deed. Even DDA vide its letter dated 12.01.2023 had cancelled the forged conveyance deed dated 03.11.2022 which is in the name of the petitioner herein and on the same date, i.e., 12.01.2023, Deputy Director (PC-104), PM-UDAY, had informed the SHO, PS Laxmi Nagar regarding the forged and fabricated



conveyance deed dated 03.11.2022 in favour of the present petitioner using the name and style of DDA.

10. From the perusal of the bail dismissal order dated 09.05.2023 passed by the learned Sessions Court, it is evident that in the reply filed by the State to the bail application of the petitioner, it has been reported as follows:-

“ On the basis of the forged GPA, the applicant moved an application to DDA for NOC under the PM UDAY Yojna for the registration of plot. The DDA rejected the same, however the applicant forged the letter of DDA and submitted the said letter to sub-registrar. On the basis of this forged letter (NOC), he got th PIQ registered at Sub-Reg. Office.

During the enquiry, it came to notice that DDA officials has not issued the letter. Hence the letter was forged by the applicant. The applicant is main conspirator and he is in connivance with several other persons have committed a heinous crime.

Further the petitioner has sold this PIQ to 4 other persons through registry at Sub-Reg. During the enquiry, it has come to notice that the cheques are sham transactions. No money has been credited as the cheques have not placed in bank for clearance. It was done to show that transaction have not taken place. The purchaser also hand in gloves with applicant.

It is pertinent to mention here that the purchasers have no money in their respective accounts. The applicant is deliberately absconding.”

11. No doubt, during the course of the arguments learned senior counsel for the petitioner had handed over some original documents to the IO but that does not come to the aid of the petitioner at this stage. The plot in question was sold on the basis of the forged and fabricated conveyance deed as verified by the DDA. There is not even an iota of whisper as to how the petitioner received a sum of Rs. 1,65,00,000/-



for the sale of the plot in question. In order to derive the title of the property in his favour the petitioner has relied upon GPA dated 26.08.1994, GPA dated 06.02.1985, GPA dated 10.07.1985, GPA dated 30.05.1989. The petitioner has also relied upon agreement to sell dated 30.05.1989 which is executed by one Smt. Rewti Dass. The perusal of these documents shows that they are notarized but the seal of notary is not legible and even the name, enrollment number and registered number have not been mentioned on these notarized documents, so in these circumstances, the custodial interrogation of the petitioner is must so as to unearth the conspiracy and as to how these documents got notarized and as to whether any such notary exists and whether the entries are there with the notary. The allegations against the petitioner are grave and serious in nature and the FIR against the petitioner has been registered under Sections 420/467/468/471/447/448/120B/34 IPC and the maximum punishment is up to life. No ground for bail is made out, the application is, therefore, dismissed.

12. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

JULY 14, 2023