

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

Reserved on : 08.03.2022

%

Pronounced on : 27.04.2022

+ **BAIL APPLN. 2085/2021**

DHRUV JYOTI GOEL

..... Petitioner

Through: Ms. Kiran Suri, Sr. Advocate with
Mr. Dhruva Bhagat, Mr. Kunal gosain
and Mr. Mohit Gulati, Advocates.

versus

STATE & ANR.

.... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Raghuveer.
Mr. Jatan Singh and Mr. Chrag
Mudgal, Advocates for the
complainant.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. This is a petition filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 883/2020 under Sections 420 IPC registered at Police Station Najafgarh.

2. Briefly stated, the facts of the case are that the present FIR was registered on the complaint of Pradeep Kumar (complainant) against the Dhruv Goel (present petitioner) who represented himself to be the rightful owner of property bearing khasra No. 113min (0-4), 112 min (1-0), 118min
BAIL APPLN. 2085/2021

(1-0), 121 min (1-0) and 122 mm (1-0) of village Maksudabad, Najafgarh, New Delhi. The petitioner showed a khatoni where applicant Dhruv Goel is reflected as the owner of the property. Thereafter an agreement to sell between the complainant and Dhruv Goel was executed on 15.12.2015, for total sale consideration of Rs.6,90,00,000/-, as per the terms and conditions of the agreement, the complainant was induced to pay Rs.15,00,000/- vide cheque bearing No. 000013 dated 29.11.2015 which was encashed by the accused person and remaining Rs.85,00,000/- were paid in cash. Also, the petitioner, had to obtain No Objection Certificate, from concerned department for sale of the property mentioned above but he could not obtain the NOC. Thereafter, the complainant visited the concerned SDM office and enquired about the property, where he came to know that the PIQ is in the name of Sh. R.K. Goel (father of the Dhruv Goel) who had died much prior to the execution of agreement dated 15.12.2015 and after the death of Sh. R.K. Goel there are other legal heirs of the said property in question. The petitioner had concealed this vital facts from the complainant and he fraudulently executed the agreement dated 15.12.2015. The complainant also made a complaint at PS Najafgarh vide DD No. 57B, dated 05.08.2018 and when the police officials contacted the petitioner regarding enquiry and investigation the petitioner requested the complainant not to file any complaint against him and assured that he will resolve the matter. Then, petitioner Dhruv Goel had entered into a MOU dated 13.02.2019 with the complainant, which was again false and the petitioner also executed an undertaking dated 13.02.2019 and paid a sum of Rs10,00,000/- by way of demand draft bearing No. 240655, dated 21.02.2019 form IndusInd Bank

Limited, Najafgarh, New Delhi. Also, at the time of execution of MOU dated 13.02.2019 petitioner had issued a cheque bearing No. 000038 dated 20.02.2019 drawn on HDFC Bank, Gopinath Baazar Delhi Cantt. Branch but asked the complainant to return the above mentioned cheque and instead of the cheque the petitioner gave the above mentioned demand draft to the complainant. Complainant provided copy of Agreement to Sell and Purchase between Pardeep Kumar and alleged Dhruv Goel dated 14.12.2015 wherein applicant showed himself as the owner of Khasra No. 113 min (0-4) 112 min (1-0) 118 min (1-0) 121 min (1-0) and 122 min (1-0) of village Maksoodabad Delhi and in the said agreement alleged person agreed that he will get the property mutated in his name from SDM office. It is also found that petitioner Dhruv Goel's sister namely Sarini Kakkar (other legal heir) had also filed a suit in Hon'ble High Court of Delhi vide C.S. (OS) No. 1341/2010 regarding this property in question i.e. Khasra No 112/2, 113/3, 118/2, 121/2 & 122/2 whereby claiming her part in the property. Then, on perusal of the court orders it has come to notice that on 13.09.2010, Hon'ble Court has ordered to maintain the status quo and the same was confirmed further vide order dated 16.05.2011, despite this fact , the petitioner had entered into an agreement to sell with the complainant. During the further investigation, Khautauni of Khasra No. 112/2, 113/3, 118/2, 121/2, 122/2 was obtained and as per record total land was found to be 4 Bighas and 4 Bishwas and the present petitioner has only 1/11 share of this property which is approximately 400 Sq. yards. As per record petitioner is owner of only 1 Bigha 16 Bishwa and 400 Sq. yards land out of Khasra Nos. 112/1 and 112/2, 113/3, 118/2, 121/2, 122/2. Hence, the petitioner Dhruv Goel

projected himself as the owner of a large share of land whereas he owned only a small portion of land.

3. I have heard learned senior counsel for the petitioner and learned APP for the State duly assisted by the counsel for the complainant and perused the records of the case.

4. It is submitted by the learned senior counsel for the petitioner that the matter is predominantly civil in nature. It is further submitted by her that all the documents pertaining to the title of the property in question are in possession of the investigating officer, therefore, the custodial interrogation is not required as the case pertains to the allegation of cheating and the documents speaks for itself which are in power and possession of the investigating officer. It is further submitted that petitioner was the owner of the property in question as on 15.12.2015 i.e. the date of execution of the agreement to sell between the petitioner and the complainant, thus, the ingredients of section 420 are not satisfied. It is further submitted that there is an inadvertent mistake of lifting of survey number from page 2 of the sale deed, instead of taking it from the schedule is not intentional and the documents were prepared by the property dealers, this inadvertent mistake of wrong khasra number had no effect on the transactions. It is further submitted that sale deed has been executed in favour of Jagjit Singh and Harjit Singh after the receipt of consideration amount and the buyers as well as the sellers were present before the court to confirm the transaction, therefore, the allegations that the petitioner has cheated them is absolutely

without any basis. It is also submitted that petitioner had already joined the investigation on several occasions and has deep roots in the society.

5. Learned counsel for the petitioner has placed reliance on following judgments to bring home the point that arrest should be the last option and should be restricted to exceptional cases as the maximum sentence for the offence under section 420 is seven years :-

- i. Siddharam Satlingappa Mhetre vs State Of Maharashtra And Ors, 2011 (1) SCC 694.*
- ii. Ravindra Saxena vs State Of Rajasthan, 2009 (1) SCC 684.*
- iii. Samrat Singh Nirula & Ors. vs State Of Nct Of Delhi, Bail App No. 146/2015.*
- iv. Arnesh Kumar vs State Of Bihar & Anr, 2014 (8) SCC 273.*

6. On the other hand, learned APP for the state and the counsel for the complainant while vehemently opposing the present bail application submitted that allegations against the petitioner are serious in nature. It is further submitted that the petitioner has sold the same property to two different buyers and that too when he is not the owner of the property in question. It is further submitted that an amount of rupees 1.75 crores is involved in cheating and this cheated amount was deposited in the account of the present petitioner which is yet to be recovered and for this purpose the custodial interrogation is required. It is further submitted that the petitioner had deliberately concealed the material facts while selling the property in question and entered into agreement to sell with the buyers claiming himself

to be the owner. It is further submitted that the sister of the present petitioner who is one of the legal heir has filed a suit in High Court of Delhi claiming her share in the property, which shows that the petitioner is not the only owner of the whole property. It is further submitted that the petitioner is likely to misuse the liberty, if granted. It is further submitted that the petitioner can hinder the investigation and may also threaten the witnesses.

7. In the instant case, it is clear from the Status report filed by the state that the petitioner had joined the investigation but not cooperated with the investigating agency and there is nothing before this court to believe that the accused is the only owner of the whole property in question but rather he owns only 1/11th share in the property. It is also pertinent to mention here that the amount of rupees 1.75 crores is involved which is the alleged cheated amount is yet to be recovered. Moreover, sister of the petitioner has filed the suit before this court claiming her part of share who is stated to be the other legal heir of the property in question. As far the contention of the counsel for the petitioner that the khasra number have been wrongly mentioned is concerned, the same will come into light during the course of investigation. The allegations against the petitioner are grave and serious in nature. Custodial interrogation of the petitioner is required in order to recover cheated amount and to complete the investigation as petitioner is not cooperating as stated.

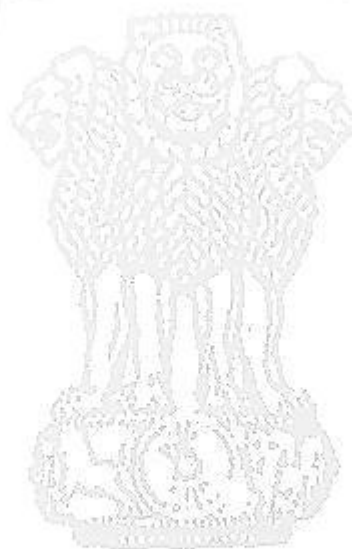
8. Therefore, in these circumstances, looking into the allegations and the fact that the petitioner is not cooperating in the investigation, no ground for

bail is made out, the bail application is, therefore, dismissed and stands disposed of. Pending applications, if any, are also disposed of accordingly.

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

RAJNISH BHATNAGAR, J

APRIL 27, 2022/p



न्यायमेव जयते