

Delhi High Court

Shri G.P.S. Rana vs State (Nct Of Delhi) on 28 May, 2002

Equivalent citations: 98 (2002) DLT 718, 2002 (63) DRJ 702

Author: S Agarwal

Bench: S Agarwal

JUDGMENT S.K. Agarwal, J.

This is a petition under Section 438 Cr.P.C. read with Section 482 Cr.P.C. for anticipatory bail in the case FIR No. 236/2000 under Sections 420/467/471/448/120B IPC P.S. Inderpuri.

1. Facts in brief are that Tapan Lahiri lodged a report alleging that he was defrauded by the petitioner for forging documents of flat No. A-83, Inderpuri, New Delhi (hereinafter, "the flat"); that in 1992 he purchased that flat in the name of his firm Kaspat Exports for Rs. 1,95,000/- from M/s. Cubical Constructions Private Ltd.; that he procured a bank loan from the Bank of Baroda for business purposes and submitted the original property papers of the flat to the bank as a security. The petitioner was earlier his landlord and had some business dealing with him. Because of the financial constraints he could not re-pay the loan to the bank as a result of which the bank instituted a suit for recovery in the Debt Recovery Tribunal. He had left Delhi and proceeded ex parte; on enquiries from the bank, petitioner moved an application before the DRT for being imp leaded as a party to the proceedings stating that he was the sole owner of the said flat and that the complainant had executed the sale deed in his favor, in pursuance to the decree dated 23rd August, 1996 passed by Sh. Prithvi Raj, then Addl. District Judge of which he has no knowledge. He further alleged that his signatures on all the documents of sale have been forged and fabricated and that he never executed any documents in favor of the petitioner or issued any receipt regarding the sale of the said flat. On the said complaint, above case was registered. The investigations are in progress.

2. Learned APP for the State at the outset argued that petitioner was earlier involved in two criminal cases being FIR No. 182/97 under Sections 3/4/5 ITP Act P.S. Rajouri Garden and FIR No. 372/83 under Section 7 of Essential Commodities Act. Learned Counsel for the petitioner contests the same. Learned APP further argued that petitioner had earlier lodged three FIRs. being Nos. 777/98 under Section 506 IPC, 934/98 under Section 389/506 IPC and 935/98 under Sections 341/354 IPC. All these FIRs. on investigation were found to be false and were cancelled and the allegations were not substantiated. Learned counsel for the petitioner does not contest the same.

3. Learned APP also argued that in May, 2001 petitioner filed a complaint against the complainant alleging that the flat in question was agreed to be sold by the complainant to him and had taken some money but he dishonestly mortgaged the flat, to the bank. On the basis of this complaint FIR was registered; the matter was investigated. FSL report revealed that the signatures of complainant on the agreement relied upon by the petitioner, were opined to be forged. A cancellation report has already been filed. He further argued that statements of stamp vendors, who had allegedly sold the stamp papers on which sale deed was typed, have been recorded. As per the report the stamp vendors never sold these stamp papers. He argued that custodial interrogation of the petitioner is required, to locate the source wherefrom the stamp papers were procured, when the forgery was committed.

4. Learned counsel for the petitioner vehemently countering the allegations argued that there is dispute between the petitioner and one Manmeet Singh, who are present in the court, in respect of some other property which he sought to be purchased for Rs. 87 lacs on 14th January, 2000; that he had paid only Rs. 19.9 lacs. Civil litigation between the parties is pending. The petitioner has lodged a report against the Manmeet Singh, his wife and his lawyer. And a vigilance enquiry is pending with DCP-Vigilance as well as with Bar Council. He further argued that the complainant did not lodge any report from 1992 till 2000, and the delay by itself shows that the present complainant has been prompted by Mr. Manmeet Singh as a counter blast. The petitioner has already participated in the investigations; and that he is ready and willing to abide by any other condition, therefore, he is entitled for anticipatory bail. Learned APP submits that no vigilance inquiry is pending.

5. I have considered the rival contentions. As per the petitioner's own showing, on the basis of complaint lodged by him FIR NO. 469/2000 was registered against the complaint. The investigations were carried out and as per FSL report, the signature of the complainant on the documents relied upon by the petitioner have been found to be forged and fabricated. Further it is not denied that petitioner's earlier three FIRs. Were found to be false and were cancelled. Other arguments raised by the counsel for petitioner that there is delay in lodging FIR; that the same was lodged at the behest of Manmeet Singh or that vigilance inquiry, against Manmeet Singh his wife and his daughter and his lawyer in respect of another property between the petitioner and Manmeet Singh, is pending (which is contested by learned counsel for respondent), cannot help the petitioner, at this stage.

6. The question whether a person is entitled to the grant of anticipatory bail or not depends upon variety of circumstances and the cumulative effect of the various facts obtained in a given case. Mere delay in lodging the report cannot be treated as sole ground for granting anticipatory bail. On the other hand, if a person is not having clean antecedents, this itself can be a ground for refusing pre-arrest bail.

7. In this case, looking into the nature of allegations, more particularly the fact that signatures of the complainant on the sale documents being relied upon by the petitioner have been found to be forged by FSL; the report of the Stamp Authority that no such paper was soled by the stamp vendors, and the past record of the petitioner, no case for grant of anticipatory bail is made out.