

(2023) 01 DEL CK 0016
In the Delhi High Court
Case No : Bail Application No. 3584 Of 2022

Koshar Ali

APPELLANT

Vs

State Of Delhi Through SHO, PS. Crime Branch

RESPONDENT

Date of Decision : 05-01-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 120B, 420, 467, 468, 471, 474

Citation : (2023) 01 DEL CK 0016

Hon'ble Judges : Swarana Kanta Sharma, J

Bench : Single Bench

Advocate : Pradeep Narula, Ayushi, Manoj Pant, Ravi Dev Sharma

Final Decision : Dismissed

Judgement

Swarana Kanta Sharma, J

1. The present application under Section 438 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") has been filed by the petitioner seeking anticipatory bail in case FIR bearing no. 208/2021, registered at Police Station (PS) Crime Branch, Delhi for the offences punishable under Sections 420/467/468/471/474/120B of the Indian Penal Code, 1860 ("IPC").

2. Briefly stated, the case of prosecution is that on the basis of a complaint filed by Mrs. Nutan Mishra, the present FIR was registered wherein she had alleged that in the year 2017, upon seeing some posters pasted in the area of Karawal Nagar in the name of M/s Aakash Yamuna Township & Developers and names of its Directors, she along with her husband had contacted Koshar Ali in his office who had projected himself as Director of M/s Aakash Yamuna Township & Developers. Koshar Ali informed them that it was a private limited and registered company and the land in question had been allotted for the township by the government which was purchased by him. He has also assured them that he was the absolute owner of the land bearing Plot No. 195-196, Khasra No. 60,

measuring 500 sq. yards, situated at New Sabha Pur, New Karawal Nagar, Delhi. Thereafter he asked them to make cash payment and accordingly, they had paid Rs. 95,00,000/- in cash to one Madeena Khatun as Koshar Ali had told them that land in question was presently in the name of co-accused Madeena Khatun. Thereafter, the GPA was executed between the complainant Nutan Mishra and co-accused Madeena Khatun on 29.11.2017. Thereafter, on 16.11.2018, when the complainant had gone to visit the property in question, she found that the plot in question belonged to one Mr. Anil Giri. Mr. Anil Giri told her that this plot was purchased by him from one Ravinder Singh. Complainant thereafter informed that she had been cheated regarding the property in question and the case was registered in Crime Branch. During the course of investigation of the present case, the chain of documents of the property in question was obtained which revealed that the said property was initially allotted to one Hukum Singh by the government in 1989. All four sons of Hukum Singh had equal share in the property of their father. By way of GPA, one Mrs. Jagwati wife of Mr. Lalchand became owner of the property in question. On 10.06.2013, Mrs. Jagwati executed a GPA in favour of one Satbir Singh. On 15.01.2014, Mr. Satbir executed the GPA which was registered in Sub-Registrar office, Seelampur in favour of one Ravinder Singh. During the course of investigation, the investigating agency verified from the concerned Registrar office that the property in question had been sold by way of a registered GPA in favour of Mr. Ravinder Singh. On 10.04.2015, the property in question was sold by Mr. Ravinder Singh to one Mr. Jitender Mishra through un-registered GPA. On 10.07.2015, Mr. Ravinder Singh sold the property to Mr. Anil Giri through registered GPA, though he had already sold it to one Mr. Jitender Mishra through un-registered GPA dated 10.04.2015 and he is attesting witness on the GPA executed between Mr. Ravinder Singh and Mr. Anil Giri and another witness of GPA is Mr. Hanif. On 27.02.2017, Mr. Jitender Mishra sold 250 sq. yards out of 500 sq. yards from Plot No. 195-196, Khasra No. 60, to the present applicant Koshar Ali who projected himself as Director of M/s Akash Yamuna Township and Developers. On 25.09.2017, Mr. Jitender Mishra also sold the property in question i.e. Plot No. 195-196, Khasra No. 60, measuring 500 sq. yards, situated at New Sabha Pur, New Karawal Nagar, Delhi to accused Madeena Khatun through un-registered GPA. On 29.11.2019, Madeena Khatun sold 100 sq. yards out of 500 sq. yards of the same property to complainant Mrs. Nutan Mishra and the deal was executed in the office of present accused Koshar Ali. The GPA executed between the accused and the complainant was also registered with the Sub-Registrar, Seelampur vide Registration No. 2061 in book No. 4, Vol. No. 11149 on page No. 22 to 27 dated 01.12.2017. The payment receipt of Rs. 95,00,000/- was also executed and the physical possession was handed over to the complainant. Accused Koshar Ali had also received a sum of Rs. 2,50,000/- vide Cheque No. 884475 and Rs. 2,00,000/- vide Cheque No. 401983 from complainant Nutan Mishra through his company M/s Aakash Yamuna Township & Developers on 27.09.2017.

3. The learned APP for the State states that accused Koshar Ali, Jitender Mishra and Madeena Khatun had hatched a conspiracy to cheat innocent people and had sold the properties in question several times to different people by registered and un-registered GPA and had cheated them of huge amount of money. It is also stated that several cases are registered under different sections against the present accused applicant and the accused has not joined investigation, in view of which, the present application be rejected.

4. The counsel for applicant/accused, on the other hand, states that the accused has committed no offence and has been falsely implicated in this case. It is also stated that there is no evidence or receipt of Rs. 95,00,000/- allegedly paid to the accused and the alleged amount of Rs. 4,50,000/- paid vide two cheques was never received by accused Koshar Ali. It is also stated that the accused is already on bail in the other cases filed against him and that no custodial interrogation is required of the present applicant.

5. The arguments of both the sides have been heard and material on record has been perused.

6. After hearing arguments and going through the case file, this Court is of the opinion that the status report filed by the investigating agency clearly reveals the chain of ownership of the plot in question. It makes it clear, at this stage, that prima facie the plot in question had been sold by the accused persons in connivance with each other by executing registered and un-registered GPAs through which they have first sold the properties to each other and thereafter, to cheat the complainant, have sold it to her, knowing fully well that the property in question does not belong to them but has actually been sold to some other person Mr. Anil Giri.

7. The learned counsel for the accused/applicant though stated that there is no evidence to link the present accused applicant to the offence in question, there are statements of the witnesses and the complainant which reveal that the deal regarding sale of property in question was signed in the office of the present accused/applicant. The investigation has also revealed that a sum of Rs. 2,50,000/- was paid vide Cheque No. 884475 and Rs. 2,00,000/- vide Cheque No. 401983 in the name of M/s Aakash Yamuna Township & Developers of which accused Koshar Ali projected himself to be a Director of. The investigation is at initial stage, the accused has still not joined investigation, custodial interrogation of the present accused is required to not only unearth the conspiracy hatched by him along with other accused persons but also for finding the trail of money and the bank accounts wherein the alleged cheques in question were deposited. The accused persons have to be confronted with each other as well as with the complainant and the accused/applicant is therefore, required for further investigation of the case at this stage.

8. Considering the overall facts and circumstances of the case, no ground for anticipatory bail is made out.

9. Accordingly, the present bail application stands dismissed.