

(2019) 11 DEL CK 0226

In the Delhi High Court

Case No : Bail Application No. 2207 Of 2019

Manju Singh & Anr

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 19-11-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 82, 91, 156(3), 438
Indian Penal Code, 1860 — Section 34, 420, 468, 471

Citation : (2019) 11 DEL CK 0226

Hon'ble Judges : Rajnish Bhatnagar, J

Bench : Single Bench

Advocate : Bankey Bihari, Birendra Bikram, Amit Ahlawat, Girish Chandra, Sandeep Mishra

Final Decision : Dismissed

Judgement

Rajnish Bhatnagar, J

1. This is an application filed under Section 438 Cr.P.C. on behalf of the petitioners for grant of anticipatory bail in case FIR No. 339/2019 dated 21.07.2019 under Sections 420/468/471/34 IPC, registered at Police Station Kalyanpuri, East District, Delhi.

2. In brief, the facts of the case are that the complainant alleged that on 04.03.2019 one person namely Jamuna Prasad (petitioner No. 2 herein) alongwith Manju Singh (petitioner No. 1 herein) whom Jamuna Prasad introduced as his wife came to the complainant for taking first floor of his property bearing No. J-21/41, East Vinod Nagar, Kalyanpuri, Delhi on rent. They agreed to pay Rs. 16,000/- per month as rent. On 06.03.2019, Manju Singh (petitioner No. 1 herein) only paid a sum of Rs. 2100/- in cash as booking amount to the complainant with the assurance that she would pay the balance amount in a week's time and started living in the property. It is further alleged that the petitioner No. 1 never paid the agreed amount of rent nor came forward to execute the rent agreement and for their police verification despite several

requests by the complainant. However, they started claiming to have paid a sum of Rs. 10,00,000/- to the complainant towards the purchase of the property in question. It is further alleged that Manju Singh (petitioner No. 1 herein) filed a false civil suit in the Karkardooma Court stating therein that she had paid a sum of Rs. 10,00,000/- as part sales consideration amount for the property. The complainant lodged complaints dated 11.05.2019, 22.06.2019 and 28.06.2019 with the local police who did not register the FIR. Thereafter on the orders passed by the Ld. Metropolitan Magistrate on the application U/s 156(3) Cr.P.C moved by the complainant, the present FIR U/s 420/468/471/34 IPC was registered.

3. It is argued by the Ld. counsel for the petitioners that the allegations against the petitioners are baseless and they have been falsely implicated in the present case. He further argued that petitioner No. 1 Manju Singh is living in property No. J-21, First Floor, East Vinod Nagar as she had purchased the said property for a consideration of Rs. 39,80,000/- and had paid Rs. 10,00,000/- as earnest money in the presence of two witnesses. He further urged that the physical possession of the property was handed over on 01.08.2018. He further argued that the deal could not be materialized as the complainant failed to hand over the documents of the property, so petitioner No. 1 failed to avail the loan for the balance payment.

4. It is further argued by the Ld. counsel for the petitioners that Manju Singh (petitioner No. 1 herein) filed a suit for recovery of Rs. 10,00,000/- against the complainant with consequential relief of permanent injunction. It is further argued that the present case is nothing but a counter blast to the suit filed by petitioner No. 1. It is further urged by the Ld. counsel for the petitioners that the possession of the petitioner No. 1 in the suit property stands admitted by the complainant before the Civil Court and the Ld. Civil Court has granted stay in favour of the petitioner No. 1.

5. Ld. counsel for the petitioners further argued that on 05.07.2019, the complainant alongwith other persons and ladies came to the property in question and threatened the petitioner No. 1 and her daughter to vacate the property and the complainant and his wife started quarrelling to which petitioner No.1 made a call at 100 number and gave complaint vide DD No. 901278. He further argued that the controversy in the FIR is of civil nature and meant to circumvent the Civil Court proceedings.

6. On the other hand, it is argued by the Ld. APP for the state that during investigation notice U/s 91 Cr.P.C was served to the petitioners to provide the documentary proof and the transaction details of the alleged amount of Rs. 10,00,000/- paid to the complainant but petitioner No. 1 Manju Singh could not provide any documentary proof of the alleged payment of Rs. 10,00,000/- to the complainant. It is further argued by the Ld. APP for the state that the petitioners are not joining the investigation and evading their arrest and are absconding, so on 28.09.2019 NBWs were got issued against them and raids were conducted on

6.10.2019, 11.10.2019, 12.09.2019 and 14.09.2019 to arrest them but they are concealing themselves. It is further urged by the Ld. APP for the state that on 16.10.2019, proceedings U/s 82 Cr.P.C have been initiated against the petitioners. Apart from this, it is also submitted by the Ld. APP for the State that in the instant case one of the co-accused Sheela Jha @ Anita Jha is a habitual complainant and an extortionist and she had got several cases of rape and molestation registered against several persons and after extorting money from them, got the cases settled.

7. Ld. APP for the state assisted by the Ld. counsel for the complainant also submitted that the petitioners claims to have been residing in the property in question since August 2018 in the said civil suit filed by petitioner No. 1 Manju Singh after entering into oral agreement to sell through her husband Rai Saheb Singh but the same is false as one Karan Singh resided in the premises in question from July, 2018 to December, 2018 as tenant and same has even been verified by the investigating agency and a rent agreement exist to that effect between the complainant and Karan Singh.

8. It is further submitted that petitioner No. 1 claimed to have entered into sale transaction with the complainant through her husband Rai Saheb Singh but during the course of argument in the bail application before the session court, petitioner No. 1 submitted that Rai Saheb Singh expired in the year 2006 which falsify the stand of petitioner No.1 to have entered into sale transaction. He further submitted that there exist a rent agreement dated 29 December, 2018 between petitioner No. 1 Manju Singh and one Pushpa Aggarwal and the said agreement has been witnessed by Rai Sahab Singh but as per the petitioner No. 1 the said Rai Sahab Singh had expired in the year 2006 itself. So who impersonated to be Rai Sahab Singh while executing rent agreement with Pushpa Aggarwal requires custodial interrogation. He further urged that a similar complaint has also been made by one Rewati Raman Singh against the petitioners on 14.07.2018 to the SHO Kalyanpuri.

9. Ld. APP for the state assisted by the Ld. counsel for the complainant further submitted that petitioners are associated with the gang of cheaters which is headed by co-accused Anita Jha @ Sheela who is a habitual complainant and an extortionist and had got several cases of rape and molestation registered against innocent people and on later stage most of the cases were withdrawn and not pursued by her. He further urged that there are several FIRs lodged by her such are FIR Nos. 559/2006, 173/2008, 307/2008, 184/2009, 245/2011 and 83/2013.

10. It is further submitted that co-accused Anit Jha @ Sheela is regularly threatening the complainant and his relatives of false implication in NDPS case and a complaint dated 05/08/2019 to that effect has been filed by the complainant.

11. I have heard the arguments of both the sides at length and perused the records of the case.

12. As far as the contention of the Ld. counsel for the petitioners that petitioner No. 1 has obtained stay from her dispossession in the civil suit filed by her in regard to the property in question has no force, since the purpose of granting the stay is only to preserve the property in question till the pendency of the suit and avoid multiplicity of proceedings.

13. According to the prosecution the petitioners in connivance with each other have prepared the forged and fabricated documents in respect of the property in question which are yet to be recovered and the petitioners are not joining the investigation and are not available at their given addresses. According to the petitioner No. 1 an oral agreement to sell and purchase was entered into between petitioner No. 1 and complainant for the sale of the property in question for a sum of Rs. 39,80,000/- out of which Rs. 10,00,000/- have been paid by her to the complainant but the investigation has revealed that the petitioner No. 1 has failed to produce before the IO any document and transaction details in regard to the payment of Rs. 10,00,000/- to the complainant. The record reveals that no date and time has been mentioned about the payment of Rs. 10,00,000/- to the complainant. It is also evident from the records of this case that the petitioner No. 1 has not even once served a legal notice to the complainant for the Specific Performance of the Agreement to Sell as alleged by her so the contention of the Ld. counsel for the petitioners that this is a civil dispute has no force, otherwise, the petitioner No. 1 would have called upon the complainant to perform his part of the contract i.e. executing the sale deed as per the alleged oral agreement to sell. Even petitioner No. 1 is totally silent in regard to the terms of the oral agreement to sell.

14. The petitioners claims to have entered into the property in question on 01.08.2018 but the complainant has filed on record a rent agreement dated 08.08.2018 to show that one Karan Singh resided in the premises in question from July 2018 to December, 2018 as tenant which has been verified by the IO. In support of his contention that the petitioners were not in possession of the property in question and the same remained vacant from December 2018 to March 2019, the complainant filed electricity bills to show the extent of consumption of electricity in the property in question. The perusal of these electricity bills shows that the consumption is very less for the months January, 2019 to March 2019, and in my opinion, it is not possible for someone to occupy the property without using the electricity for such a long period.

15. There is one more aspect of this case, as per the allegations, petitioner No. 2 Jamuna Prasad has introduced himself as husband of petitioner No. 1 at the time of taking the property in question on rent from the complainant but the petitioner No. 1 in the civil suit has claimed herself to be the wife of one Rai Sahab Singh who has expired in the year 2006 but the rent agreement with one Pushpa Aggarwal entered into by petitioner No. 1 is dated 29.12.2018 and on that date the said Rai Sahab Singh was not alive and the said rent agreement dated 29.12.2018 has been witnessed by said Rai Sahab Singh (husband of petitioner

No. 1) who by any means was not alive in 2018.

16. It has also come in the investigation that the modus operandi of the petitioners and their co-accused Anita Jha is to grab the property of innocent persons by registering false cases against them and settle the matter after taking money from them.

17. Both the petitioners are not joining the investigation; they are evading their arrest; as per the status report filed by the state proceedings U/s 82 Cr.P.C have been initiated against them; forged documents are to be recovered; investigations are to be made in regard to the payment of Rs. 10,000,00/- made by the petitioner No. 1 to the complainant and who has been impersonating as Rai Sahab Singh whom the petitioner No. 1 claims to be her husband is also to be unearth. Therefore, in the facts and circumstances of the case, no ground for bail is made out. The bail application is, therefore, dismissed.

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