

(2013) 12 DEL CK 0046
In the Delhi High Court
Case No : Bail Application 1775 of 2013

Prahlad

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 19-12-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2013) 12 DEL CK 0046

Hon'ble Judges : Sunita Gupta, J

Bench : Single Bench

Advocate : C. Shandilya, for the Appellant; Navin K. Jha, APP, Mr. Prabhat Kumar, Advocate for Complainant Inspector Nirmal Jha, EOW, for the Respondent

Final Decision : Dismissed

Judgement

Sunita Gupta, J.—This is an application u/s. 439 Cr.P.C. for grant of bail moved by the petitioner in case FIR No. 196/2011 u/s. 420 /467 /468 /471 /120B IPC registered with PS Economic Offences Wing. As per the status report submitted by the State, the FIR in the instant case was registered on the complaint of Sh. Sanjay Mishra, Director, Anjaneya Bisanpur Agro Industries (Pvt.) Ltd. who had reported that the said company had purchased the property K-1, Hauz Khas Enclave, New Delhi from Sh. M.S. Verma vide registered sale deed on 8th October, 1973. MCD vide letter dated 22nd November, 1973 informed them that mutation has been done in the name of the company. Since 1968, the building had been rented out to different parties by them. Complainant company leased the first and second floor to Hindustan Steelworks Construction Ltd., a Central Government Undertaking on 8th January, 1976 which is still occupied by them. The said complainant company leased the ground floor to M/s. Kochi Refineries Ltd., a Government of India Undertaking, on 16th December, 1978 who vacated the premises on 11th January, 2001 and since then it is in the possession of the complainant company. The electricity bill, water bill, MCD House Tax of the property in question have been paid by the Complainant company since 1973 till

date. One Gurmeet Singh has asserted that he has bought the property from S.K. Malhotra on 12th August, 1985 who had bought the same from M.S. Verma on 4th March, 1971, however, nowhere in the records of MCD/DJB/DESU there is mention of S.K. Malhotra or Gurmeet Singh as the owner of the premises. Complainant company has alleged that Gurmeet Singh is nobody and is trying to rake up the issue merely to extort some kind of money. Gurmeet Singh (an NRI settled in Bangkok, Thailand) had created fake and forged sale deeds/documents and conspiracy has been hatched by the accused persons in trying to deprive the complainant company of his rightful ownership title and possession over the property in question.

2. During the course of investigation the reports were collected from various agencies who reported that the property in question stands in the name of complainant company, i.e., M/s. Anjaneya Bisan Pur Agro Industries (Pvt.) Ltd. Sh. M.S. Verma from whom the property is flowing further has been traced and examined. He also stated that property in question was owned by him and he accepted that he executed sale deed on 8th October, 1973 in favour of M/s. Anjaneya Bisan Pur Agro Industries (P) Ltd. He further stated that it was totally wrong that he executed sale deed dated 4th March, 1971 in favour of Sh. S.K. Malhotra. Sh. A.K. Jain (the then Sub-Registrar) has also been examined. After perusing the document registered as No. 6003, Volume No. 3225 on Pages 98-107, dated 9th October, 1973 executed by Sh. Mohinder Singh Verma in favour of M/s. Anjaneya Bisan Pur Agro Industries (P) Ltd. (Complainant's sale deed), he stated that this document appears to have been registered under his signatures. After perusing Sale Deed dated 4th March, 1971 from M.S. Verma to S.K. Malhotra (alleged party's chain) he stated that it did not pertain to his tenure as a Sub-Registrar, New Delhi and his signatures have been manipulated and forged as he took charge of Sub-Registrar III, Asaf Ali Road in the month of September-October, 1971.

3. Later during investigation, complainant further reported that on 17th November, 2011 they learnt that one Gurmeet Singh, Satish Kumar Sharma and others in furtherance of their criminal conspiracy, fraudulently by forging the signatures of Vikas Mishra (Director in the company) and submitting forged and fabricated documents, applied for obtaining the digital signature of Vikas Mishra & using the digital signatures obtained through fraud, filed certain forms before the Registrar of Companies showing that they (family members/directors in the complainant company) have all been removed from the directorship of the company and Gurmeet Singh & Satish Kumar Sharma have been appointed as Directors of the company.

4. During investigation, it has been revealed that the accused persons have created forged ownership documents of the complainant's property but as they could not succeed in their ulterior motives the accused persons Gurmeet Singh and Satish Kumar Sharma in connivance and conspiracy with Pramod Kumar Gosain, Narender Kaushik and Sunil Jain etc. fraudulently took over the

complainant's company by becoming directors in the said company and by removing complainants from their company on the basis of forged and fabricated documents. The accused persons Gurmeet Singh, Satish Kumar Sharma and Pramod Kumar Gosain in connivance with each other and Narender Kaushik and Sunil Jain fraudulently obtained digital signatures, DIN number and by creating fake email IDs filed the changes with the Registrar of Companies (ROC). The sole motive of the accused persons was to illegally dispose of the property of the complainants and they hijacked complainant's company to fulfil their illegal objective and gain wrongfully and cause wrongful loss to complainant party. The accused persons Gurmeet Singh and his associates have also created third party interest in the complainant's property by executing documents in favour of Narinder Pal Singh & Prit Pal Singh and others.

5. Jitin Pal Singh, being SPA of Gurmeet Singh, initially had made a complaint dated 14th July, 2011 in which he had given copy of agreement to sell dated 13th July, 2011, between his father Narinder Pal Singh and uncle Prit Pal Singh with accused Gurmeet Singh in respect of property in question and given the details of payment of Rs. 1 crore through four cheques as earnest money paid to accused Pramod Kumar Gosain, being SPA of accused Gurmeet Singh. The above four cheques were found encashed in the account of accused Pramod Gosain. Accordingly, notice was sent to Branch Manager, Central Bank of India, Dwarka and the Bank had provided the details of cheques and statement of account.

6. The present applicant accused Prahlad Singh being property dealer, introduced Pramod Gosain and Gurmeet Singh to Jitin Pal Singh and others for selling of property in question. He was interrogated at length and interrogation memo was prepared. In which he stated that he deals in property since 2006 at New Ashok Nagar, where he met Pramod Gosain, who told him about the property in question and requested to sell the same. He contacted one Jagat Pehalwan through whom he met with Jitin Pal Singh mentioned above. After negotiations, the deal was finalized for the property in question for Rs. 8.5 Crore and Jitin Pal Singh gave four cheques amounting to Rs. 1 Crore to Pramod Gosain and agreement to sell was signed between them. Later he was called by Jitin Pal Singh and informed that there was a problem in this property and he demanded his money back. He became underground and Pramod also fled somewhere else. His signature as witness exists at GPA, SPA, receipt, agreement to sell and purchase. He being property dealer introduced Pramod Gosain to Jitin Pal Singh and others and facilitated the fraudulent deal. The amount of Rs. 5,50,055/- vide cheque No. 051417 dated 11th June, 2011 and Rs. 50,000/- vide cheque No. 051420 dated 13th June, 2011 was credited in the AXIS Bank, in the account of his brother Vedveer, from the account of accused Pramod Gosain and further he withdrew Rs. 6 lacs on 14th June, 2011 vide cheque No. 010275. The above amount of Rs. 6 lacs was transferred in the account of his brother from the account of accused Pramod Gosain, which accused/Pramod received as earnest money from the accused Narinderpal Singh and Pritpal Singh as earnest money for the sale of the property in question.

7. The applicant/accused was found to have been also signed as a witness on another receipt-cum-agreement dated 2nd November, 2011 executed between Gurmeet Singh and one Ashok Kumar for selling of the property in question, in which the same four cheques of different amounts totalling for Rs. 1 crore is found mentioned in the above said agreement which was already been received by the accused Pramod Gosain from the accused Narinder Pal Singh and Pritpal Singh.

8. It was submitted by the learned counsel for the petitioner that all the accused except the main accused, are on bail. The petitioner is only property dealer. The role assigned to the applicant is only that he being property dealer introduced Pramod Kumar Gosain and Gurmeet Singh to Jitin Pal Singh and others for selling the property in question. The applicant has received a sum of Rs. 6 lacs by cheque and he is ready to deposit the amount in court without prejudice to his rights on merits of the case. He is the only bread earner of the family. He is in custody since 3rd August, 2013. As such, he be released on bail.

9. The application is opposed by the learned APP for State on the ground that the allegations against the applicant are very serious in nature. His specimen signature has been taken and has been sent to the FSL. He is signatory to number of documents. His antecedents are also not clear, inasmuch as, he is involved in another case of similar nature. As such, he is not entitled to be released on bail.

10. The application is strongly opposed by the complainant, who also submitted a reply to the application wherein it was submitted that the applicant is a habitual offender and has criminal antecedents. He has been involved in various other cases of cheating, forgery, deception and fabricating documents besides the present case. He is also an accused in a case registered at PS NOIDA, Sector-20, having Case Crime No. 910/2011 dated 14th December, 2011 u/s. 420 /468 /467 /471 of IPC, wherein he in collusion with other accused persons, prepared forged land documents in order to criminally grab the plot No. 258, Sector 15A, NOIDA.

11. In the instant case, he is a co-conspirator and co-accused along with Gurmeet Singh and Pramod Kumar both of whom have been declared proclaimed offender besides other accused persons. In case he is released on bail, there is every likelihood that he will evade the process of law. He along with other accused persons prepared forged and fabricated chain of property documents in order to criminally grab and sell the property in question for making illegal gain to themselves. The FSL report clearly establishes that the documents prepared by the accused are forged one and signatures of the Sub-Registrar was also found to be forged and fake. As per the information provided by the Treasury Officer, Delhi Treasury to EOW the non-judicial stamp papers which were used for forging the sale deeds of the complainant's property were also found to be fake. The applicant is one of the signatories and has witnessed the agreement to sell the complainant's property through forgery and fabrication of documents dated

12th July, 2011 executed between the accused Gurmeet Singh, Narender Pal Singh and Pritpal Singh for a value of Rs. 5,50,00,000/- and Rupees 1 crore were received by the accused persons as advance money. The applicant also signed as witness in another agreement to sell of the same property of the complainant which was also found to be forged and fabricated documents executed between Gurmeet Singh and Ashok Kumar of Rs. 30 crores and Rs. 4 crores were received by the accused persons as advance money. Bail application of co-accused Satish Kumar Sharma has already been dismissed by the High Court on 1st November, 2013. Both Satish Kumar Sharma and the applicant are beneficiaries in the present case. Reference was made to the order dated 16th August, 2013 passed by the learned Additional Sessions Judge while dismissing the bail application of this accused by observing that the applicant appears to have been favoured by the police in not investigating the above aspect properly, not arresting him and not making any sincere efforts to trace out the originals. The applicant was charge sheeted without being arrested by the Economic Offences Wing, Crime Branch, Delhi Police. However, he was sent to judicial custody by learned CMM, Saket. Charge has not so far been framed against the accused persons, as such, he is not entitled to be released on bail.

12. Reliance was placed on Sharad Kumar vs. CBI for submitting that since the charge has not so far been framed, at this stage, the accused is not entitled to be released on bail.

13. I have given my thoughtful consideration to the respective submissions of learned counsel for the parties and have perused the record.

14. It is not in dispute that the applicant is the property dealer. For the sale of the property in question he contacted one Jagat Pahalwan through whom he met Jitin Pal Singh. After negotiation, the deal was finalized for Rs. 8.5 crores and Jitin Pal Singh gave four cheques amounting to Rs. 1 crore and agreement to sell was signed between them. Jitin Pal Singh, later on demanded his money back. Pramod Kumar Gosain became underground. Signatures of the applicant appear on agreement to sell and various other documents and he was facilitator in the deal. A sum of Rs. 6 lacs was received by him. He also signed as witness on another agreement dated 2nd November, 2011 in respect of the very same property between Gurmeet Singh and one Ashok Kumar.

15. Under the circumstances, the allegations against the accused are very serious in nature. Two of the main accused are still absconding and have been declared proclaimed offender. The application of co-accused Satish Kumar Sharma for grant of bail has already been dismissed by this Court vide order dated 1st November, 2013. The case is at crucial juncture. His antecedents are also not clean and as per prosecution case, he is also involved in another case registered at NOIDA. That being so, keeping in view the seriousness and gravity of the offence coupled with the fact that so far even charge sheet has not been filed, at this stage, the accused is not entitled to be released on bail. The application is accordingly dismissed.