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Lalit Kumar vs.the State

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SooperKanoon Citation : sooperkanoon.com/1208478

Court : Delhi

Decided On : Aug-31-2017

Appellant : Lalit Kumar

Respondent : The State

Advocate for Def. : Mr. Vikas Sharma, Mr. Akshai Malik

Judgement :

$~26 * IN THE HIGH COURT OF DELHI AT NEW DELHI + BAIL APPLN. 932/2017 LALIT KUMAR .....Petitioner Through: versus THE STATE Through: Mr. Vikas Sharma, Advocate. ....Respondent Mr. Akshai Malik, APP for the State. CORAM: HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL %

ORDER
3108.2017 1. By way of the present petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') the petitioner seeks grant of regular bail in FIR No.46/2014 under Sections 420/468/4
of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), registered at Police Station Karawal Nagar, Delhi. The petitioner is stated to be in judicial custody since 20.10.2016. Status report is on record.

2. The present complaint has been lodged in respect of a land deal whereby the petitioner alongwith other co-accused persons entered into an agreement for sale of a certain piece of land to the three complainants and 8 others. It is alleged that

the said land was non-transferable but was represented by the accused persons that the land is transferable and the land use is also transferable, thereby inducing the complainants to purchase the same. A registered Agreement to Sell was executed on 26.12.2012 and a consideration of Rs.35 lakhs was also received by the BAIL.APPLN. 932/2017 Page 1 of 4 accused persons at different occasions, in furtherance of the said agreement. However, subsequently at the time of registration of the sale deed, the purchasers discovered that the Fard of the land was forged whereby the land in question was shown as transferable. The accused persons are thus stated to have committed forgery and have cheated the complainants and others on the strength of such forgery. Also the consideration received by the accused persons is alleged to be misappropriated by them.

3. The petitioner preferred an application for bail before the Additional Sessions Judge which was dismissed, vide order dated 01.04.2017, on consideration of the facts and nature of allegations leveled against the petitioner and gravity of alleged offence committed by him. Hence, the present bail application.

4. Learned counsel for the petitioner contended that the petitioner is in custody since 20.10.2016; that the petitioner had not received any consideration from the complainants and has not been benefitted in any manner; that the role of the petitioner was merely of an attesting witness to the agreement to sell and same is pertinent from the investigation records; that the petitioner has not forged the documents of the said property and has merely shown, to the complainants, a copy of the said documents which were given to him by the land owner; that the owner of the said land who was the main party to the agreement has already been admitted on regular bail.

5. It was further submitted by the counsel for the petitioner that, the petitioner has deep roots in the society and was the elected representative/Gram Pradhan of his village; that the investigation is complete and further incarceration of the petitioner would serve no BAIL.APPLN. 932/2017 Page 2 of 4 useful purpose in the interest of justice; that the charge sheet in the case has already been filed and there is no chance of tampering with the prosecution witness; therefore, the petitioner ought to be released on bail.

6. On the contrary, Mr. Akshai Malik, APP for the State, contested the bail application and submitted that the petitioner has played an active role in the alleged transaction and has also received around Rs. 15 lakhs from the complainants in furtherance of the agreement to sell. Learned counsel further submitted that, as mentioned in the status report, the petitioner had later on issued two cheques in favour of one Nisha/shareholder but the same were dishonoured. It was also submitted that the petitioner being the Gram Pradhan of the village and responsible for allotment of the leased lands in the area, ought to have known that the said land was a lease land that was non-transferable. Hence, the present bail application ought not to be allowed.

7. Considering the arguments advanced by the learned counsel for the parties and looking at the facts and circumstances of the present case, it is hereby noted that the petitioner has been in custody since 20.10.2016- for almost 10 months, the investigations have been concluded, the challan has been filed, as such he is not any more required for interrogation and, therefore, one of the factors for detaining the petitioner, being the necessity of custodial interrogation does not subsist any more.

8. On perusal of the record that the petitioner who is the Pradhan went with Premchand/co-accused owner of the land who naturally would have been in possession of the Fard. Except that the petitioner was an attesting witness to the agreement to sell and no other role has been BAIL.APPLN. 932/2017 Page 3 of 4 9. assigned to the petitioner. Even the allegation that the petitioner received Rs. 15 lacs is not supported from the record of the prosecution. The main accused/Premchand owner of the land remained in custody for 8 months and was released on bail. Under these circumstances, this Court is of the opinion that the petitioner be released on bail, subject to the following conditions: i) That the petitioner shall furnish a personal bond in the sum of Rs.25,000/- with one surety of the like amount subject to the satisfaction of the concerned Court; ii) that the petitioner shall cooperate with the investigation and make herself available for interrogation by police officer as and when required; 10. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

11. Accordingly, the petition stands disposed of. AUGUST31 2017 //gr BAIL.APPLN. 932/2017 SANGITA DHINGRA SEHGAL, J Page 4 of 4

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