

Javed Ali vs.state

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Court : Delhi

Decided On : Oct-26-2017

Appellant : Javed Ali

Respondent : State

Judgement :

\$~ * + IN THE HIGH COURT OF DELHI AT NEW DELHI BAIL APPLN. 1639/2017
Order reserved on 09th October, 2017 Order pronounced on 26th October, 2017
JAVED ALIPetitioner Through: Mr. Yogesh Sharma, Advocate. Versus STATE
Through: Ms. Anita Abraham, APP for the State ..Respondent with SI Anurag, PS
Mehrauli. for Mr. O.P. Panwar, Advocate complainant with complainant in person.
CORAM: HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL1 By this present
application filed under Section 438 Cr.PC, the petitioner is seeking grant of
anticipatory bail in case FIR No.315/2017 under Sections 420/4
of the Indian Penal Code, 1860 (hereinafter referred as IPC) registered at Police
Station Mehrauli.

2. The case of the prosecution is that the petitioner/accused entered into a
collaboration agreement with one Mr. Narender Singh according to which it was
decided that upon completion of the construction both the parties shall own equal
proportion of flats in the building. Another co-accused Pooja Duggal who runs a
property dealer office at Mehrauli mediated the deal between the petitioner and
her brother-in-law (Jeeja) and paid a token amount of Rs.1 Lac to the petitioner
towards purchase of the one flat at the BAIL APPLN. 1639/2017 Page No.1 of 3

second floor. Thereafter, Pooja Duggal sold the aforesaid flat to the complainant vide Agreement to Sell dated 04.10.2013 and received an amount of Rs. 7 Lacs towards advance for purchase of the aforesaid flat. Shortly, thereafter the petitioner sold the same flat to Jagbir Singh and in order to reduce the documentation the petitioner got the sale deed executed between Narender Singh and Jagbir Singh. When the complainant found that the flat for which he had paid the earnest money and been also sold to someone else, he lodged the complaint against the petitioner.

3. Mr. Yogesh Sharma, learned counsel for the petitioner contended that the petitioner has been named maliciously in the FIR by the complainant in order to extract money from him; that the applicant had never made any agreement with the complainant nor had he received any amount from Pooja Duggal or the complainant; that the whole contents of the FIR are vague and nothing has been specifically alleged against the petitioner; that the complainant alleged that he had paid a sum of Rs.7 Lacs to the petitioner but no documentary proof in support of the alleged payment has been furnished by the complainant; that the petitioner deserves grant of anticipatory bail on parity with Pooja Duggal who has already been granted anticipatory bail by the Trial Court on 31.05.2017 in the instant case; that the petitioner has been cooperating with the investigating Officer and deserves grant of bail.

4. Per contra, Ms. Anita Abraham, APP for the State strongly opposed the present anticipatory bail application and argued that the allegations leveled against the petitioner are serious and grave BAIL APPLN. 1639/2017 Page No.2 of 3 in nature and he played a major role in deceiving the complainant; that he has not been cooperating with the Investigating Officer and intentionally not producing the documents pertaining to the entire property which are in his possession despite specific direction from the Trial Court.

5. I have heard both the learned counsels for the parties and perused the material available on record.

6. It is not disputed that the flat in question belonged to the petitioner. The allegations contained in the FIR are that the flat had been sold to brother-in-law of

Pooja Duggal who in turn sold the same to the complainant and also received an amount of Rs. 7 Lacs which has been paid to the petitioner. The role of the petitioner cannot be ruled out, moreso, because the original documents are in his possession and he has not cooperated in the investigation by not submitting the relevant documents due to which there is a strong apprehension that he will not cooperate in further investigation if bail is granted to him.

7. Considering the facts and circumstances of the present case, gravity of offence and the fact that the investigation is at a preliminary stage, this court is not inclined to grant anticipatory bail to the petitioner at this stage.

8. Accordingly, the present petition is dismissed. SANGITA DHINGRA SEHGAL, J
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