

Naresh Kumar Vs State

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Court : Delhi

Decided On : Aug-18-2010

Judge : Mr. Hima Kohli, J.

Appeal No. : BAIL APPLN. No.1847/2009

Appellant : Naresh Kumar

Respondent : State

Advocate for Def. : Mr. M.N. Dudeja, Rajendra Prasad, Advs.

Advocate for Pet/Ap. : Mr. Ritesh Bahri, Mr.Amit Tanwar , Mr.H.S.Khatana, Advs.

Judgement :

1. Whether Reporters of Local papers may No be allowed to see the Judgment?
2. To be referred to the Reporter or not? No
3. Whether the judgment should be No reported in the Digest?

ORDER

1. The present petition is filed by the petitioner praying inter alia for grant of anticipatory bail under section 438 of the Cr.P.C., in respect of FIR No.511/2007 lodged by the complainant, Mr.Naresh Sabharwal against the petitioner and three others under Section 120B/406/419/420 IPC registered with PS Defence Colony.

2. A status report was filed by the State on 24.9.2009. An additional status report dated 6.11.2009 is handed over by the learned APP for the State.

3. As per the status report, the facts of the case are that the complainant, Mr.Naresh Sabharwal alleged that the petitioner introduced himself as a Patwari of District Sohna, Gurgaon and showed him a piece of land measuring 110 acres claiming that the same belonged to him though on papers, the same was in the names of one Mr.Arun Mathur and Mr.Narayan Mathur, two other co-accused. Believing the assurance given by the petitioner, the complainant entered into an agreement, which was signed by Mr.Arun Mathur, as the owner and another co-accused, Mr.Jagdish Nambardar, as a witness. The complainant claims to have paid a sum of Rs.5,77,500/- in cash to the petitioner, and subsequently, a demand draft of Rs.5,00,000/- and a sum of Rs.1,00,000/- in cash was paid to the petitioner, who issued a receipt under his signatures to the complainant acknowledging receipt of payment. The complainant further alleged that he was planning to sell his TATA Safari Car, which the petitioner herein offered to purchase from him for a sale consideration of Rs.5,25,000/- and it was agreed that the sale proceeds of the vehicle would also be adjusted towards the final payment of the land deal between the parties.

4. The complainant alleged that a separate agreement was executed at the instance of the petitioner, with Mr.Narayan and his son, Devesh Sabharwal whereafter a cheque for Rs.3,00,000/- was given in the name of Mr.Narayan and a sum of Rs.2,77,5000/- was given in cash to the petitioner, who retained the agreement with him on the plea that signatures were to be obtained from the witness, Mr.Jagdish Nambardar. The complainant claimed that thereafter, he kept approaching the petitioner for execution of the sale deed, but the petitioner started avoiding him, which finally compelled him to lodge the aforesaid FIR.

5. In the present case, vide order dated 6.10.2009, an interim protection was granted to the petitioner subject to his appearing before the IO as and when summoned. It is contended by the counsel for the petitioner that the petitioner has co-operated in the investigation and therefore he is not required to be arrested. He further states that in the aforesaid order, his submission to the effect that the FIR

was a counter blast to the complaint filed by the petitioner against the complainant on 7.5.2005, with regard to the sale transaction of the TATA Safari Car between the parties, which was followed by a civil suit instituted by the petitioner against the complainant.

6. Learned APP strongly opposes the relief of anticipatory bail by the petitioner and states that the petitioner is one of the main accused in the present case. He submits that the specimen signatures of the petitioner had been obtained so as to compare them with his signatures as existing on the receipt issued by him to the complainant. The FSL report dated 16.3.2010 has now been received and is on the record. As per the said report, the questioned signatures on the receipt and the specimen signatures of the petitioner tally.

7. The Court is further informed that during the investigation, it has transpired that one of the co-accused, Mr.Arun Mathur who represented himself to be a cousin of the petitioner, and signed the agreement to sell dated 9.3.2005 in the capacity of owner of the parcel of land and received from the complainant, a sum of Rs.5,00,000/- by a demand draft, had duly credited the said amount in his account. The said co-accused, Mr.Arun Mathur was arrested on 1.9.2009 and is in judicial custody. The other co-accused, Mr.Jagdish Nambardar was in judicial custody since 24.4.2010 and has been granted bail by the Sessions Court in the month of August 2010. Mr.Narayan, the third co-accused is stated to be absconding and steps are being taken by the State, to have him declared a proclaimed offender.

8. Learned APP for the State submits that the second agreement is still in the custody of the petitioner and it has not been recovered and further, that the antecedents of the petitioner are also not clean as he is involved in four separate cases registered against him, namely, FIR No.41/05 under Sections 406/419/420/467/468/471, FIR No.237/99 under Sections 420/467/468/471/506/120B, FIR No.71/05 under Sections 406/419/420/467/468/471 and FIR No. 342/04 under Sections 406/419/420/467/468/471 PS Sohna. It is submitted that in the aforesaid complaints, the same modus operandi has been adopted by the petitioner to dupe innocent purchasers, as adopted in the present case and that his being granted

anticipatory bail would hinder the investigation. It is also stated that the petitioner has failed to give complete replies to the questions put to him and his custodial interrogation is required to recover the money taken by him.

9. Having regard to the aforesaid facts and circumstances, it is not a fit case to grant anticipatory bail to the petitioner. The prayer made in the petition is declined. The petition is dismissed.

10. Needless to state that the observations made herein are purely for the purpose of considering grant of anticipatory bail to the petitioner and shall not be treated as a reflection on the merits of the case.

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