IN THE COURT OF SH. DEVENDER KUMAR JANGALA, ASJ-05, NEW DELHI DISTRICT, PHC, NEW DELHI.

Bail Application no.465/23; State vs. Gurpreet Singh Anand
Application no.466/23; State vs. Gurpreet Singh Sahni
Application no. 486/23; State Vs. Aman Anand
FIR no. 14/22
U/s 406/467/468/471/420/120B IPC
PS: Special Cell

16.03.2023

Present: Sh.Mukul Kumar, Ld. Addl. PP for the State.
Sh. Ashish Upadhyay, Ld.counsel for the applicants/accused persons namely Gurpreet Singh Anand, Gurpreet Singh Sahni and Aman Anand @ Amandeep.
Sh. Ayush Jain and Sh. Gaurav Bisht, Ld.counsel for the complainant.
IO/SI Amit Kumar in person.

These are three separate bail applications under Section 438 Cr. PC moved on behalf of applicants/accused persons Gurpreet Singh Anand, Gurpreet Singh Sahni and Aman Anand for grant of anticipatory bail.

Reply to the bail applications already filed by the IO.

Arguments at length are heard. Record perused.

Brief facts: The present case was registered on the complaint of complainants Brijmohan Goyal, Ashok Kumar and Devender Kumar Garg. The complainants alleged that in the year 2018 they had jointly made bid for 3 DDA Plots. They won the bid but later on they backed out from purchasing the auctioned properties and due to their backing out, the 5% of the total cost of the plots, deposited by them, were forfeited by DDA.

Thereafter the accused Gurpreet Singh Shahni @ baba @ Babwa approached the complainant Ashok Kumar and assured that DDA officials are known to him and he would get back their forfeited amount and also introduced other accused persons Gurpreet Singh @ Vinny and Amandeep @ Aman Anand. The accused persons showed different properties of DDA to the complainants and said that the previous forfeited amount shall be adjusted in the said properties. The accused persons showed the property in the name of the complainants on fake website of DDA and demanded money from the complainants in the name of preparing the final documents such as possession slip,, conveyance deed etc. the accused persons also introduced one Anil Kumar, impersonating him as DDA Officer. It is alleged that the accused persons have forged and fabricated the documents of 25 DDA properties, induced and cheated the complainants to the tune of Rs.55 Crores. Accordingly based on the allegations of the complainants, the present case was registered and investigation was carried out. During the course of investigation allotment letters, no objection certificate, possession slip, allotment cum demand letter, conveyance deed, demand drafts of 25 DDA properties were found forged on verification from the DDA.

It is submitted by the Ld.counsel for applicants/accused persons that the applicants have been duped by the complainants in a pre planned manner and lastly arrayed as an accused. That the allegations in the FIR are not more than concoction of the actual facts and a planned act of the complainant. That during the course of investigation accused Anil

Sharma @ Anil Kumar was arrested and charge sheet has already been filed and the applicants have been summoned as an accused vide order dated 24.02.2023. That the applicants have also lodged complaint against the complainants with regard to alleged forgery. That in the present case cash transaction worth Rs.55 Crores are stated to be conducted in series of transaction which is itself a legal act. That the cash transactions are still without any corroborative evidence. That it is evident from the FIR that the complainants were having direct dealing with the accused Anil Sharma and no offence is made out against the applicants/accused. That the applicants have been cheated by the complainants and when they came to know about the intent of the applicants, they got the applicants falsely implicated in the present matter. That the applicants have also been cheated by the accused Anil Sahrma who represented himself as DDA officer. That the charge sheet has already been filed and no custodial interrogation is required in the present case as the applicants are also victim in the present case. That no useful purpose is going to be served by sending the applicants behind the bars. It is prayed that the applicants may kindly be enlarged on bail. In support of his submissions Ld. Counsel for the applicants/accused persons have relied upon following judgments:

a) **Tara Chand Vs. State of NCT of Delhi, 2015 SCC Online Delhi 8037,**

b) **Rajesh Suri Vs. State, 2022 SCC Online Del 294**

c) **Manish Yadav Vs. State of UP, Criminal Misc. Anticipatory Bail Application no. 4645/22.**

d) Siddharth Kappor Vs. State of UP and another, Criminal Misc. Anticipatory bail Application no. 4040/22.

On the other hand bail applications are strongly opposed by Ld. Addl. PP for the state assisted by Ld.counsel for the complainant. It is alleged that the accused persons have committed a very serious crime of cheating worth Rs.55 Crores and they are evading the process of law. That the accused persons have not returned a single penny. That the charge sheet only against the accused Anil Kumar has been filed and the investigation qua the applicants/accused persons is still going on, and process under Section 82 Cr. PC has been issued against the applicants/accused persons. That the custodial interrogation of the applicants/accused is required for recovery of case property, forged stamps, papers/stationary used in preparing the alleged documents and recovery of the alleged cheated amount. It is specifically argued that the once the coercive process has been issued against the applicants/accused persons the anticipatory bail applications under Section 438 Cr. PC are not maintainable. Ld.counsel for the complainant in support of his submissions has relied upon the judgment of Hon'ble High Court in **Sunil Sharma Vs. State, bail Application no. 1170/15, Deepa Devi, Daya Ram and Jagdish Vs. State of NCT of Delhi, Ravi Prakash & Ors. Vs. State and of Hon'ble Supreme Court in Prem Shankar Prasad Vs. State of Bihar & Anr., Criminal Appeal no. 1209/21.**

I have considered the submissions made by Ld.counsel for the applicants/accused persons and Ld. Addl. PP for the state assisted by Ld.counsel for the complainant and carefully gone through the records.

In the present case the complainants are alleged to have been cheated to the tune of Rs.55 Crores on the pretext of allotment of plots from the DDA. It is reported by the investigating officer that the allotment letters and other documents of 25 DDA plots allegedly given by the applicants/accused persons in favour of the complainants were found to be forged upon verification from the DDA. The accused Gurpreet Singh Anand is alleged to have received a sum of Rs.7,23,70,00/- aprox(other than the demand drafts) in cash from the complainant for the allotment of DDA properties. Accused Gurpreet Singh Shahni is alleged to have received the cash of Rs.19,42,26,000/- from the complainants. Though it is argued by Ld. Counsel for the applicants/accused persons that the accused Amandeep @ Aman Anand has been falsely implicated in the present case and no money was received by him but it is reported by the investigating officer that the said accused has taken three cheques of Rs.2,60,000/-, Rs.2,65,000/- and Rs.20 lacs from the complainant Brijmohan Goyal for the process of allotment of DDA properties. Except the bald submissions, Ld.counsel for the applicants/accused persons could not furnish any documentary proof with regard to the said transaction of the complainant with the accused Aman Anand.

It is vehemently argued by Ld.counsel for the applicants/accused that the charge sheet in the instant matter has already been filed and the applicants/accused persons are not required for custodial interrogation, therefore no useful purpose is going to be served by sending them behind the bars. However, perusal of the charge sheet reveals that the same has been filed only in respect of accused Anil Kumar, whereas the investigation qua the other accused persons is still going on. The applicants/accused persons are alleged to have prepared forged and fabricated documents of DDA properties in the name of the complainants and cheated huge amount from the complainants. The applicants/accused persons are evading the investigation and the process under Section 82 Cr. PC has already been issued against them.

It is submitted by Ld.counsel for the applicants/accused persons that the applicants/accused persons have been summoned as an accused vide order dated 24.02.2023 by Ld. CMM after filing of charge sheet. However, upon perusal of trial court record it is clear that the submissions made by Ld.counsel for the applicants/accused persons are contrary to the record. The Ld. Trial Court has not issued any summons to the applicants/accused persons because they have absconded and process under Section 82 Cr. PC has already been issued against them.

It is also contended by Ld.counsel for the applicants/accused persons that the applicants/accused persons have also lodged a complaint against the complainants with regard to the alleged forgery. However, the perusal of the record reveals that the said complaint was filed by the applicants/accused persons only on 10.03.2023 i.e. after a much later date from the registration of FIR and even after issuance of process under Section 82 Cr. PC.

It is also contended that a coordinate bench has considered the grant of bail to the accused persons when the charge sheet was filed against the accused persons and summons were already issued, by holding that the police is not legally empowered to seek the custody at later stage. However, this order dated 16.02.2023 on the bail application has no application to the facts of present case as the applicants/accused persons are neither arrested nor charge sheet had been filed against them and they are absconder.

It is also submitted by Ld. Counsel for the accused persons that there is no proof of any cash amount received by the accused persons. However, to rebut this contention, the investigating officer has produced a diary maintained by the complainants in which the cash amount was duly acknowledged by the applicants/accused persons under their own signatures and during investigation IO has also obtained audio and video recordings of the complainants and applicants/accused persons to corroborate the cash transactions.

The applicants/accused persons are stated to be required for custodial interrogation for recovery of alleged cheated amount, recovery of case property, forged stamps, papers/stationary used in preparing the alleged forged documents. The allegations against the applicants/accused persons are grave and serious and the accused persons in a pre planned manner have cheated huge amount from the complainants.

Looking at the nature and gravity of offence, role of the applicants/accused persons and the fact that the investigation qua the applicants/accused is at the initial stage and the applicants/accused persons are required for detailed custodial interrogation, I am not inclined to exercise discretionary powers of anticipatory bail in favour of applicants/accused persons. **Consequently the anticipatory bail applications under Section 438 Cr. PC moved on behalf of applicants/accused persons Gurpreet Singh Anand, Gurpreet Singh Sahni and Aman Anand @ Amandeep are dismissed.**

Copy of this order be given dasti to Ld. Counsel for applicants/accused persons.

Trial court record be sent back to the court concerned.

(Devender Kumar Jangala)
ASJ-05, New Delhi District
PHC, New Delhi/16.03.2023