

Bail Matter: 2775/2023
State v/s Manoj Tandon
FIR No: 94/2021
U/s: 420/467/471/120B IPC
PS: Greater Kailash

29.08.2023

ORDER

Present: Dr. Prayag Dutt Pandey, ld. Addl. PP for State.
Sh. Saurav Rajpal, ld. Counsel for complainant.
Ms. Usha Sharma, ld. Counsel for applicant/ accused
who is stated to be in J/C since 06.09.2021.
Reply to the bail application has been filed and same
is taken on record.

Arguments on the application advanced by ld.
Counsel for applicant/ accused and in rebuttal by ld. Addl. PP for
State assisted by ld. Counsel for complainant heard at length.

As per the allegations made against the accused, he
along with co-accused Radhey Shyam had sold the property
bearing no. C-11, Ground Floor, Greater Kailash – I, to
complainant despite knowing fully well that the said property
was already lying mortgaged with Canara Bank, Defence
Colony, since the year 2002 and thereby duped the complainant
to the extent of Rs. 1.95 crores. Ld. Counsel has stated that co-
accused Radhey Shyam had already been admitted to bail.

This submission has been vehemently opposed by
ld. Addl. PP for State stating that accused Radhey Shyam is
absconding.

Be that as it may, the present accused in this case was granted bail by Id. MM vide his order dated 14.01.2022, subject to the condition of his depositing an amount of Rs. 85,31,559/- by way of self renewing FDR drawn from a nationalized bank in the name of the Court. Against the aforesaid condition, the applicant/ accused had preferred a modification petition which was decided by the Court of Sh. Gaurav Rao, the then Id. ASJ, vide his order dated 31.05.2022, whereby, the petition seeking modification in the condition was dismissed. The said order was challenged by the applicant/ accused before Hon'ble High Court of Delhi, whereby, Hon'ble High Court of Delhi speaking through Hon'ble Mr. Justice Jasmeet Singh, J., vide his lordship's order dated 26.08.2022, was pleased to accord an opportunity to the applicant to file fresh petition before Id. MM for seeking bail.

It has been stated that pursuant to the said liberty granted by Hon'ble High Court of Delhi, the applicant/ accused had filed fresh bail application before Id. MM, which has been dismissed vide order dated 19.08.2023.

It has been vehemently argued before this Court by Id. Counsel representing the applicant/ accused that condition of depositing the amount *per se* was contrary to the mandate of Hon'ble Superior Courts, as laid down by Hon'ble Supreme Court in the case titled as ***Ramesh Kumar v/s The State of NCT of Delhi, 2023 Live Law (SC) 496*** and hence the condition was not only an onerous one but was also contrary to the law and thus

the applicant/ accused had a right of being released on bail, without imposition of any such condition.

Further reliance has also been placed by Id. Counsel on the following citations :-

(i) G.Selvakumar v/s State of Tamil Nadu etc., arising out of SLP (Crl. No. 4202-4203/2020), decided on 01.10.2020;

(ii) Manoranjana Sinh @ Gupta v/s Central Bureau of Investigation, 2017 (2) JCC 1352, Hon'ble Supreme Court of India, decided on 06.02.2017;

(iii) Teesta Atul Setalvad v/s State of Gujarat, arising out of Crl. Appeal No(s) 2022/2023, Hon'ble Supreme Court of India, decided on 19.07.2023;

(iv) Ritu Chhabaria v/s Union of India, arising out of Writ Petition (Crl.) No. 60 of 2023, Hon'ble Supreme Court of India, decided on 26.04.2023.

However, at the very outset, I must hold here that the citation of ***Ritu Chhabaria's*** case (supra) is inapplicable to the facts of this case as it deals with the provision under Section 167(2) CrPC and not deals with the provisions of Section 437 and 439 CrPC, which deal with regular bail.

So far as reliance on the other citations is concerned, it could be held precisely that the aforesaid directions have been issued by Hon'ble Apex Court while dealing with the special leave petitions which are to be treated on a different pedestal as compared to regular bail application before this Court.

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As observed by Hon'ble High Court of Delhi, in its order as discussed above, in the last page thereof, even the Hon'ble High Court of Delhi was of the view that the order of Id. MM appeared to be consensual in nature, otherwise, imposing of such condition of deposit of amount by the applicant/ accused would have been strongly objected to or opposed by Id. Counsel for applicant/ accused, however, since he had preferred to remain silent at the time of imposition of such condition, hence, his silence amounted to admission.

Be that as it may, the order dated 14.01.2022, passed by Id. MM has not been set aside by preferring any petition in this regard till date, hence, it had attained finality and still holds good in law and by way of this application, the applicant/ accused seems to undo whatever already had been done by him and wants to play the entire game afresh, thereby making the first bail order look like a nullity.

Hence, keeping in view the gravity of offence as well as the seriousness of allegations against the applicant/ accused and also the fact that co-accused has absconded after obtaining bail from Court, no ground is made out for releasing him on bail in this case. Therefore, the application is dismissed as such.

Copy of the order be given dasti by the Facilitation Centre.

(Lokesh Kumar Sharma)
ASJ (FTC) - 02 Sakets Courts
29.08.2023