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MCRC-43006-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 11th OF OCTOBER, 2024

MISC. CRIMINAL CASE No. 43006 of 2024

NIKHIL SUNDRANI

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Through video conferencing.

Shri Manu Maheshwari, Advocate for the applicant

Shri Kamal Kumar Tiwari, Government Advocate for the
respondent/State.

Shri Shanmukh Vachu, Advocate for the objector/complainant.
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ORDER

This is an application for anticipatory bail under section 482 of the BNSS (S.438 of the Cr.P.C.) arising out of Crime No. 207/2024 registered at Police Station Station Road, Ratlam for the offences punishable under Sections 406, 420, 467, 468 read with Section 34 of the I.P.C.

2. This case has been listed by the orders of Hon'ble the Chief Justice looking to the urgency expressed in the matter by way of filing I.A. No. 16940/2024, pressing which it is contended that the applicant is suffering from blood clots and his undergoing treatment at Kokilaben Dhirubhai Ambani Hospital, Indore and that if he is taken in custody, then his treatment would be disrupted. On account of such urgency expressed, this case has



been listed today during Holidays.

3. The case diary is available with the State and the Objector/complainant also appears to oppose the bail application. Therefore, this Court has proceeded to hear the application on merits.

4. Learned counsel for the applicant, while taking this Court through the prosecution version, has argued that as per the prosecution version, co-accused Tahir Khan is the admitted owner of a property - residential plot having area approximately 5000 square feet in Ratlam. The said Tahir Khan is stated to have entered into an agreement with complainant Monesh Kataria in the year 2018 and prior to that some dispute was pending between co-accused Tahir Khan and the Company Mid India Infrastructure Pvt. Ltd. (of which the present applicant is stated to be an authorized signatory) and civil suits were pending between Tahir Khan and the said Company which were filed against each other and in this manner two cross suits were pending since 2015. In the agreement, executed with the present applicant, details of dispute between Tahir Khan and Company were duly disclosed and it was stated that since there is a dispute as to possession over the property, therefore, the sale deed would be executed with the complainant as soon as vendor Tahir Khan gets possession of the plot. However, as per the prosecution, the sale deed was executed by Tahir Khan in favour of the Company on 27/12/2021 while the civil suits between the Company and Tahir Khan were still pending, which were thereafter withdrawn on 21/2/2022 in compromise.

5. Learned counsel for the complainant/Objector states that the



complainant has been cheated in this manner because he already had an agreement in respect of the same plot since 2018.

6. Learned counsel for the applicant argued that the complainant may have valid cause for specific performance of his agreement in case he establishes the requisite facts required for specific performance of contract in civil suit and such civil suit has already been filed by the complainant in the year 2022 itself against the Company, as well as, against Tahir Khan for specific performance of his contract and for cancellation of sale deed executed in favour of the Company. After almost two years of filing the civil suit for specific performance of contract and cancellation of sale deed, all of a sudden, the instant FIR has been registered by the Police Authorities which is a clear abuse of process of criminal law because a civil litigation is already pending in the matter of sale deed executed by Tahir Khan and it is an attempt to convert a civil dispute into a criminal one.

7. It is further argued by learned counsel for the applicant that applicant is only an authorized signatory who is stated to be authorized by the Company to sign the sale deed and there is no allegation in the diary that the present applicant is a Director or Managing Director of the Company and has taken decision to get the sale deed executed in favour of the Company.

8. Learned counsel for the Objector objected to the bail application submitting that the complainant had also got a public notice published on 3/6/2021 and, therefore, the present applicant must be having knowledge of the agreement between the complainant and Tahir Khan and also that despite having knowledge of agreement between Tahir Khan and the complainant,



the present applicant willfully got the sale deed executed which is a criminal action. It is also argued that though Tahir Khan has been enlarged on bail, but he has been given the benefit of regular bail after surrender. It is also argued that the original sale deed is yet to be recovered from the present applicant.

9. Learned counsel for the State has also opposed the bail application on the ground that the present applicant is an authorized signatory of the sale deed on behalf of the Company and the Company must be having the knowledge of agreement with the complainant because a public notice was published on 3/6/2021 in newspaper. However, on a query made by the Court, learned Counsel for the State was unable to answer whether the present applicant was simply authorized as a signatory to sign the sale deed or he is Director or Managing Director of the Company and was part of the decision making process of the Company to execute the sale deed. Learned counsel for the State simply argued that the applicant is authorized signatory appointed by the Company to sign the sale deed.

10. The aforesaid argument was countered by learned counsel for the applicant with the assertion that though it is denied that the present applicant was having knowledge of agreement between Tahir Khan and the complainant, but even if the knowledge was there, then it would only be a relevant fact in terms of S.19 of the Specific Relief Act at the time of grant of relief in the Civil Suit which is pending between the parties and it will not convert a civil act into a criminal act.

11. Considering the aforesaid factual aspects and also looking to the



contentions of the rival parties, there seems to be no need for custodial interrogation of the applicant as the dispute is essentially a civil dispute in respect of which a civil suit is already pending since 2022, which is almost two years prior to registration of FIR. As such, this Court is inclined to grant anticipatory bail to the applicant. This application is, accordingly, allowed and it is directed that in the event of his arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac Only)** with two solvent sureties each in the like amount to the satisfaction of the Arresting Officer. This order will remain operative subject to compliance of the following conditions by the applicant:-

i) The applicant will comply with all the terms and conditions of the bond executed by him;

ii) The applicant will cooperate in the investigation/trial, as the case may be;

iii) The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;

iv) The applicant will not commit any other offence or will not repeat the offence in future. In case, if he found involving in the offence of same nature, this bail order shall stand cancelled automatically without further reference to the Bench.

v) The applicant will not seek unnecessary adjournments during the trial; and



vi) The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

vii) The applicant shall mark his attendance before the SHO of the concerning police station once per week, till conclusion of investigation and filing of Challan.

Certified copy as per rules.

(VIVEK JAIN)
JUDGE

(and)