

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

Reserved on 20.07.2024
Pronounced on 26.07.2024

Bail App No. 57/2024 (O&M)

Mr. Nagraj V. Age 34
S/o. Visnu Sagar K
R/o. I-D-132-Defence Colony,
New Delhi
Through his father
Vishnu Sagar K, Aged 75 years
S/o. Ramanjam
R/o. Flat No. 7, 2nd Floor River View
Apartments No. 2/10 Boat Club Road
3rd Avenue, Raja Annamalaipuram,
Chennai, Tamil Nadu-600028

.....Appellant(s)/Petitioner(s)

Through: Mr. Areeb Javed Kawoosa, Advocate
Vs

UT of Jammu and Kashmir through
Incharge Police Post Khanabal Sadar,
Anantnag

..... Respondent(s)

Through: Mr. Mohsin Qadiri, Sr. AAG with
Ms. Nadia Abdullah, Adv. and Investigating
Officer.
Mr. S. R. Hussain, with
Mr. Syed Gowhar Rashid Adv. for
complainant

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. After having suffered the dismissal of the bail application vide order dated 12.06.2024, passed by the court of learned Judicial Magistrate 1st Class, Anantnag, the petitioner has approached this Court for grant of bail by submitting that he is an Entrepreneur/Industrialist, besides being a politician and has been meeting with the various political leaders/dignitaries of the country.

2. It is stated that the complainant has got an FIR bearing No. 77/2024 registered against the petitioner on 26.04.2024 by narrating the concocted and contradictory facts. The complainant on the one hand in the FIR has alleged that he had paid Rs. 12 lacs to the petitioner as he had to meet the President of India and on the other hand, he has stated that the complainant went to Delhi to discuss some property related matter with the petitioner in Delhi and the complainant allegedly entered into some agreement with the petitioner in respect of the property situated in New Delhi. The petitioner claims to have been arrested on 09.05.2024 from his Delhi residence and from 10.05.2024 to 16.05.2024, while he was in custody of the Police, the complainant, while using his influence with the aid and assistance of the Police authorities, tortured him and by coercion managed to get the substantial amount from him, as the wife of the petitioner transferred Rs. 10 lacs to the bank account of the petitioner, whereafter Rs. 4,99,900/- and Rs. 4,99,900/- were transferred from the account of the petitioner to the account of the complainant through online mode. Further, Rs. 4,99,900/- and Rs. 50,000/- were also transferred from the account of the petitioner to the account of the complainant through online mode while he was in custody. Besides abovementioned amounts, on 17.05.2024, the father of the petitioner was also forced to transfer Rs. 14,50,000/- to the account of the complainant through SBI Bank. Thus, the total amount of Rs. 35,25,000/- has been transferred to the account of the complainant. It is also contended by the petitioner that the complainant, who is a high-ranking Army Officer, has used his influence to ensure that the petitioner does not get the

assistance of a lawyer of his own choice. It is further stated that the FIR was registered against the petitioner, only under section 420 IPC and the offences under sections 467, 468 471 and 419 IPC were not at all made out from the contents of the FIR but still the official respondent in its response before the court of Judicial Magistrate 1st Class submitted that the petitioner has committed offences under sections 420, 120-B, 467, 468, 471 and 419 IPC just to ensure that the petitioner continues to languish in jail.

3. The petitioner is seeking bail on the ground that he is having a good status and reputation in the society and though the FIR was registered under 420 IPC, but no notice under section 41-A of the Cr.P.C. was ever issued to the petitioner. It is also urged by the petitioner that the complainant is abusing his official position to influence the Investigating Officer concerned and in fact the petitioner has not committed any offence whatsoever.
4. The official respondent has filed the objections stating therein that on receipt of the written complaint, FIR No. 77 of 2024 for offences under sections 420, 467, 468, 471, 419 and 120-B IPC stands registered in Police Station, Anantnag and during the course of investigation, the Investigating Officer recorded the statement of the complainant and obtained bank transactions details from various banks and also obtained CDRs of Nagaraj V i.e. the petitioner herein and his associates associated with the crime. While perusing the bank transactions details, it came to the fore that the various transactions have been made in the account of the petitioner and his associates in the crime. An amount of Rs. 1.06 crore has been transferred in the account of the petitioner and his associates through the complainant on

account of fake property deal and during investigation, offences under sections 420, 467, 468, 471 419 and 120-B IPC stand established against the petitioner. It is further pleaded that the petitioner was arrested in Delhi in accordance with law and at present is in judicial custody. It is also stated that the petitioner was continuously changing his address, as it was revealed from the zerox copies of the documents seized from his possession that in AADHAR, Passport and his Election Identity Card, the petitioner had mentioned different addresses. It is also stated that the petitioner had got access to the Parliament and President's House in collusion with lower staff and after getting his photos clicked, he had been uploading on social media to gain influence and cheat innocent people. In 2016, the petitioner had grabbed rupees five crores from the film producer, music director and medical students in the name of medical seats and from others for clearing a project in which his father and sister were also involved. During the course of investigation, it surfaced that the petitioner was involved in many financial scams in the state of Tamil Nadu. The data has been collected in this regard from the official site of the Tamil Nadu Police. The petitioner figures as accused in three FIRs i.e. FIR No. 78/2014 dated 15.01.2014 for offences under sections 420 and 506 IPC (Amount involved Rs. 53,00,000/), FIR No. 395/2017 dated 16.11.2017 for offences under sections 420, 506 and 34B IPC (Amount involved Rs. 79,30,000/) and FIR No. 268/2021 dated 26.04.2021 for offences under sections 109, 120-B, 420 and 409 IPC (Amount involved Rs. 92,00,000/). It is also averred in the response that the petitioner has mentioned a fake doctorate degree in

humanitarian service in his Instagram account which he claims to have received from Dubai based university, but he is not providing details of the said university. He has also been falsely claiming to be Industrialist and Entrepreneur on social media and using two different Instagram IDs with different names.

5. The complainant though was not a party to the bail application but was permitted to file objections. In his objections, he has stated that the complainant and his wife have been deprived of their hard-earned money of Rs. 1.06 crores which they had raised by availing loan from financial agencies/banks. The complainant in his response has mainly pleaded about the criminal antecedents of the petitioner by asserting the various FIRs registered against him and in all these FIRs, there are allegations against the petitioner and his relatives for duping the innocent victims of their lacs of rupees. It is also stated that in one of the FIRs, the petitioner was enlarged on bail by the learned Metropolitan Magistrate, Saidapet, Chennai but the High Court of Judicature of Madras vide order dated 16.12.2021 cancelled the bail by observing that there were eight previous cases pending against the second respondent therein i.e. the petitioner herein. It is also averred that a non-bailable warrant is also pending against the petitioner in the court of Metropolitan Magistrate for exclusive trial of CCB cases and CBCID Metro cases.
6. Mr. Areeb Javed Kawoosa, learned counsel for the petitioner has vehemently argued that the FIR lodged by the complainant is contradictory in nature. At one end, the complainant is alleging that he paid Rs. 12 lacs to

the petitioner on his request while on the other hand, he has stated that he entered into a transaction for purchase of a house with the petitioner. He has vehemently argued that the Investigating Officer has conducted the investigation in a tainted manner and has virtually acted as a recovery agent of the complainant for the purpose of recovering the money from the petitioner. He has relied upon the judgments of the Apex Court cited as **(2010) 12 SCC 254, (2021) 2 SCC 427, (2022) 10 SCC 51, Live Law 2023 (SC), (2015) 4 MLJ (Cri) 436, (2022) 7 SCC 124 and AIR 2014 SC 175.**

7. On the contrary, Mr. Mohsin Qadri, learned Sr. AAG has vehemently argued that the criminal antecedents of the petitioner negate the false claims made by the petitioner as being a reputed Entrepreneur/Industrialist and politician. He has further submitted that pursuant to the warrant obtained from the court of JMIC, Anantnag, the search of the rented house of the petitioner was conducted and one photocopy of the sale deed, which was used by the petitioner for cheating the complainant was recovered only on 10.07.2024. He has further argued that the petitioner has mentioned different addresses in different documents pertaining to his identification and the investigation has reached at a crucial stage, as such, the petitioner does not deserve to be enlarged on bail at this stage, particularly when different residential addresses have been mentioned in different documents and there is every likelihood of the petitioner jumping over the bail and it would be difficult to secure his presence.

8. Mr. S. R. Hussain, learned counsel representing the complainant has reiterated the submissions made by Mr. Qadri, learned Sr. AAG. He has laid stress that due to the criminal antecedents of the petitioner, the High Court of Judicature of Madras had cancelled the bail granted to the petitioner. He has vehemently argued that the amount was transferred by the petitioner on his own volition and that the petitioner, while showing forged papers of House bearing No. D-132, Ground Floor, Defence Colony, New Delhi, dishonestly induced the complainant to part away with the huge sum amounting to more than a crore of rupees.
9. In response to a query posed by this court, the Investigating Officer, who was present before the court when the matter was heard, submitted that he would be filing the chargesheet with in ten days.
10. Heard and perused the record.
11. The record reveals that the application was submitted by the complainant with the Senior Superintendent of Police, Anantnag for action against the petitioner and others. It was stated that the petitioner came into contact with the complainant in the month of August 2023 and by posing himself as a big businessman, financier, co-producer of Bahubali (Movie), expressed his desire to invest in Kashmir. He also asked the complainant that if he was interested to buy a house in Delhi, he could get him the same at reasonable rates. On 08.09.2023, the petitioner requested him to transfer Rs. 12 lacs in his father's account as he was going to President's house. The complainant transferred Rs. 11 lacs from his account and Rs. 1 lac from his wife's account. On 12th September, 2023, the petitioner called the complainant to

Delhi for discussing the property matter and the complainant went to his house bearing No. D-132 Defence Colony, New Delhi where he stayed for a night and was even taken out for a dinner. The petitioner showed the property papers (title documents) of his house to him and claimed that he and his father were the owners of the house, and they wanted to sell the house as it was not very useful to them as they hardly stayed in Delhi. As the complainant was looking for a property, so he agreed to buy and asked him to prepare a written agreement and give him a copy of the registry. The petitioner replied that he would send by post as the documents were lying in Chennai, but he never did so. In the month of October, 2023, the petitioner called the complainant to Chennai, where he showed some apartment, where renovation work was going on, as his production house. The complainant has further mentioned in his complaint that on asking of the petitioner, he deposited an amount of Rs. 32 lacs in the account of K. Vishnu Sagar i.e. the father of the petitioner, Rs. 30 lacs in the account of Ranjeet Surya Ganesan (his Chennai friend) and Rs. 44 lacs in his own account. The abovementioned sum of Rs. 1.06 crores was paid by the complainant through his own and wife's account. When the suspicion raised in the mind of the complainant, he enquired and came to know that the property did not belong to the petitioner, and he had shown him false papers pertaining to property. When the complainant asked him to return his money, he kept on delaying the same and finally issued cheques for an amount of Rs. 1 crore and due to insufficient funds, the said cheques were bounced.

12. Though the complainant has jumbled the facts in his complaint but what is discernible from his complaint is that the petitioner showed false papers of the property claimed to be owned by him to the complainant and obtained the amount from the complainant fraudulently and dishonestly.
13. A perusal of the Case Diary reveals that on 10.07.2024 after obtaining the search warrant, the search of the house bearing No. D-132, Defence Colony New Delhi where the petitioner was in fact residing as a tenant was conducted and from the premises, one photocopy of the sale deed dated 24.01.2023 was seized. One Prateek Tiwari has been shown as vendor in the sale deed and sale deed bears the seal impression of Sub-Registrar, but the sale deed appears to be unregistered. Whether the sale deed is false document and has been forged by the petitioner is a matter of investigation and this court would not like to comment upon the authenticity of the sale deed. The complainant has placed on record the notice dated 12.04.2024 issued to the petitioner by M/S Prateek Infratech India Pvt. Ltd. for vacation of the property bearing House No. D-132, Ground Floor, Defence Colony, New Delhi to demonstrate that the petitioner was simply the tenant of the property of House bearing No. D-132 Ground Floor Defence Colony, New Delhi and was never the owner of the property but he allegedly claimed to be the owner on the basis of false document and duped the complainant of his hard earned money. The record reveals that the petitioner has been arrested in accordance with law.
14. The allegations against the petitioner are serious in nature that he not only showed the fake documents of the property that was not owned by him but

also duped the complainant for an amount of Rs. 1.06 crores, though it appears that an amount of Rs. 12 lacs was not paid to the petitioner pursuant to any transaction but on the request of the petitioner.

15. In **“Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496”**, while quashing the order of grant of bail, the Hon’ble Supreme Court of India has held as under:

“9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced;
- and
- (viii) danger, of course, of justice being thwarted by grant of bail.”

16. The same principles have been reiterated by the Hon’ble Supreme Court in **“Centrum Financial Services Ltd. v. State (NCT of Delhi)”**, (2022) 13 SCC 286.

17. It is admitted by the complainant that he has received some money from the petitioner and Investigating Officer too, on being asked by this Court, stated that some amount has been paid to the complainant, while the petitioner was still in custody. At the same time, the complainant has submitted that it was a voluntary act of the petitioner, and no one forced the petitioner to pay any amount to the complainant. Investigating Officer has submitted that the

petitioner was allowed to talk to his wife on phone pursuant to the directions of the learned Magistrate during remand hearings. This court would not like to comment upon the merits of the claims as well as counter-claims of the contesting parties but deems it proper to remind the Investigating Officer that the investigating agency is not supposed to act as a recovery agent of the complainant and the duty of the Investigating Officer is only to investigate the allegations levelled against the accused and affect seizures of the case property in accordance with law. The judgments relied upon by the learned counsel for the petitioner are not applicable in the present facts and circumstances of the case.

18. With the recovery of the sale deed on 10.07.2024, the investigation of the case has reached at a crucial stage, as such, this Court is not inclined to accept the prayer of the petitioner for grant of bail at this stage. However, this Court deems it proper to direct the SSP concerned to supervise and monitor the investigation himself to ensure fair investigation and further, Investigating Officer is directed to conclude the investigation as expeditiously as possible. The petitioner shall be at liberty to approach the concerned court afresh for grant of bail, after the chargesheet is filed.

19. **Disposed of.**

(RAJNESH OSWAL)
JUDGE

SRINAGAR
26.07.2024
Rakesh PS

Whether the order is speaking:	Yes/No.
Whether the order is reportable:	Yes/No.