

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Bail Application Nos. 2512 & 2514 of 2009**

% Pronounced on: 31<sup>st</sup> December 2009

# SMT. DURGESH BANSAL ..... Petitioner  
! Through: Mr. Bijender Singh, Adv.

versus

\$ STATE ..... Respondent  
! Through: Mr. Jaideep Malik, APP

**AND**

# ANIL KUMAR BANSAL ..... Petitioner  
! Through: Mr. Bijender Singh, Adv.

versus

\$ STATE ..... Respondent  
! Through: Mr. Jaideep Malik, APP

\* **CORAM:**  
**HON'BLE MR. JUSTICE V.K. JAIN**

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|----|---|-----|
| 1. | Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. | To be referred to the Reporter or not?                                    | Yes |
| 3. | Whether the judgment should be reported in the Digest?                    | Yes |

: **V.K. JAIN, J. (ORAL)**

1. The case of the prosecution is that the petitioners either forged or got forged the signatures and stamp of Sh. R.K. Khatri, Advocate on the documents purporting to be executed by Smt.

Shanti Devi Bansal, mother of the petitioner Anil Kumar Bansal in favour of Anil Kumar Bansal. A perusal of the Power of Attorney and affidavit purporting to be executed by Shanti Devi Bansal would show that the stamp papers have been purchased on 9<sup>th</sup> September, 2002. The attestation by Sh. R.K. Khatri, Notary Public is dated 7<sup>th</sup> September, 2002. Prima facie, a document stamp paper for which was purchased for 9<sup>th</sup> September, 2002 could not have been attested by Sh. R.K. Khatri on 7<sup>th</sup> September, 2002. Signatures of Sh. R.K. Khatri were taken during the course of investigation and sent to FSL and it has been reported that the questioned signatures are not the signatures of Sh. R.K. Khatri. In any case, this is not the case of the petitioners that these documents bear genuine signature of Sh. R.K. Khatri, Notary Public.

2. As per the receipt issued, Smt. Shanti Devi Bansal, mother of the petitioner Anil Kumar Bansal sold her half share in the first floor of property bearing Municipal No.29 built on Plot No. B-3 measuring 217.5 Sq. Yds. for a total consideration of Rs.50,000/-. Admittedly, no payment to Smt. Shanti Devi Bansal has been made by way of a cheque or Pay Order and case of the petitioner Anil Kumar Bansal is that he paid the entire sale consideration of Rs.50,000/- in cash to his mother. Ordinarily, atleast part payment is made by cheque/Pay Order, in transactions involving sale/purchase of immovable property so as to have some documentary proof of payment of consideration.

Moreover, prima facie it is difficult to accept that half share in the first floor built on plot measuring 217.5 Sq. Yds. could be sold for Rs.50,000/- even in September, 2002.

3. Smt. Shanti Devi Bansal has claimed in her statement under Section 161 of Cr.P.C. that her signatures on these documents were obtained by deceiving her and making a misrepresentation that these were required for a DCM case regarding the dispute of a shop.

4. The Investigating Officer requires custodial interrogation of the petitioner Anil Kumar Bansal to find out how the signatures and stamp of Sh. R.K. Khatri came to be forged on the documents purporting to be executed by Smt. Shanti Devi Bansal. He also wants to ascertain who were the other persons involved in forgery of the signatures and stamp of Public Notary on these documents. Unless custodial interrogation of the petitioner Anil Kumar Bansal is carried out, it will not be possible for the Investigating Officer to unearth the conspiracy pursuant to which the signatures and stamp of Public Notary came to be forged on the documents.

In '***Pokar Ram vs. State of Rajasthan***', AIR 1985 SC 969, the Hon'ble Supreme Court observed as under:-

“Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the

higher court and bail is sought during the pendency of the appeal. These situations in which the question of granting or refusing to grant bail would arise, materially and substantially differ from each other and the relevant considerations on which the courts would exercise its discretion, one way or the other, are substantially different from each other.”

In '*State of Andhra Pradesh vs. B.K. Kundu*', JT 1997

(8) SC 382, the Hon'ble Supreme Court held that when the accused is pitted against allegations involving a well orchestrated conspiracy, he should not have been granted anticipatory bail. In '*CBI vs. Anil Sharma*', JT 1997 (7) SC 651, the Hon'ble Supreme Court observed that the effective investigation of the suspect is of tremendous advantage in disinterring useful information and also the material which would have been concealed. It was further observed that the success in such interrogation would elude if the suspect persons knows that he is well insulated and protected by the pre-arrest bail order, during the time he is interrogated and very often interrogation in such a condition would be reduced to a ritual.

5. Hence, there is no ground for grant of anticipatory bail to the petitioner Anil Kumar Bansal.

6. As regards the petitioner Smt. Durgesh Bansal, considering the fact that she is not the beneficiary of a document purporting to be executed by Smt. Shanti Devi Bansal and is only a housewife, who might have put her signatures on the request or persuasion of her husband, it is directed that in the event of her

arrest, she shall be released on bail in the case FIR No. 53/2009 registered at Police Station Gulabi Bagh under Sections 420/468/471 of IPC, on her furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Arresting Officer, subject to the conditions that:

- (i) she shall not leave the Country without prior permission of the Court,
- (ii) she shall deposit her passport, if any, along with the bail bond and
- (iii) she shall join investigation as and when directed.

Bail Applications No. 2512 & 2514 of 2009 & Crl.M.A. No. 15143 & 15146 of 2009 stand disposed of.

**(V.K.JAIN)**  
**VACATION JUDGE**

**DECEMBER 31, 2009**  
*AG*