

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-17832 of 2014 (O&M)
Date of Decision: 14.9.2015.

Rameshar Dass

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. J.S.Sekhon, AAG, Punjab.

Mr. P.S.Ahluwalia, Advocate
for the complainant.

SABINA, J.

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in FIR No. 112 dated 10.4.2014 under Section 420, 120-B of the Indian Penal Code, 1860, registered at Police Station Tripuri Town, Patiala.

Prosecution story, in brief, is that complainants had purchased plot measuring 1066 square yards vide sale deed dated 12.11.2010 from Dharampal Singh attorney of Ganga Ram attorney of Harinderpal Singh. The original owner of the plot in question was the petitioner-Rameshwar Dass. After the purchase of land, when the complainants visited the spot, they were assured by the vendor that the plot purchased by the complainants was lying vacant. However, in August 2013, when the complainants went to the spot to raise the boundary wall, they came to know that a fraud had been committed. In fact, at the spot there was only 360

square yards land lying vacant whereas out of the remaining land, streets had been carved out and a colony was existing at the spot. It is further the case of the complainants that Mohinder Singh's family etc. tried to get the possession at the spot and wanted to construct/install a shed.

Learned counsel for the petitioner has submitted that as per the sale deed Annexure P-6, complainants had purchased the land and had paid the money to owner Harinderpal Singh. So far as the petitioner is concerned, he had sold the land to Harinderpal Singh vide sale deed dated 24.5.2002 through his attorney Rajbir. As per the revenue record, petitioner was the owner in possession of the land in question at the time of its sale. Petitioner had filed the civil suit challenging the power of attorney alleged to have been executed by him in favour of Rajbir.

Learned State counsel, who is assisted by the counsel for the complainants, on the other hand, has submitted that, in fact, the petitioner along with his co-accused had defrauded the complainants. Civil suit had been filed by the petitioner after the lodging of the FIR in question. The land in question was originally owned by the petitioner. In fact, at the spot the streets had been carved out from the land in question and the plot purchased by the complainants was not lying vacant at the spot. Petitioner was required for custodial interrogation.

At the time of issuance of notice of motion, following order was passed by this Court on 26.5.2014:-

“Counsel would contend that co-accused, namely, Dharampal Singh has already been granted the concession of pre-arrest bail by this Court vide order dated 21.05.2014 in CRM-M No. 13560 of 2014.

Notice of motion, returnable for 22.07.2014.

In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions as envisaged under Section 438(2) Cr.P.C.”

This Court while allowing the anticipatory bail filed by Dharampal Singh has observed as under:-

“It would be apposite to notice that even as per complainant's version contained in the FIR, the possession of the plot had been delivered by Rameshwar Dass and Mahender Singh and the amount in question had been received by the family of Mahender Singh. As such the contention raised by learned State counsel regarding recovery to be effected from the present petitioner would not be of consequence insofar as the prayer for grant of anticipatory bail is concerned.”

Thus, the petitioner cannot take benefit of the fact that anticipatory bail had been granted to his co-accused Dharampal Singh as the case of the petitioner is on a different footing. So far as the petitioner is concerned, he is the brother of Mohinder Singh. Mohinder Singh and his family were trying to take the possession at the spot with a view to construct/install a shed. Thus, the petitioner had sold the land, although, he was not competent to do so. In this way, complainants had been cheated/defrauded of the money given by them at the time of execution of the sale deed in their favour. Petitioner is required for custodial interrogation.

Hence, no ground for grant of anticipatory bail to the petitioner is made out.

Dismissed.

**(SABINA)
JUDGE**

September 14, 2015
Gurpreet