

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-18920-2015 (O&M)

Date of decision: 8.6.2015

Kuldeep Shahi

...Petitioner

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr. Gorakh Nath, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner seeks pre-arrest bail in FIR No.190 dated 31.8.2014 registered under Sections 420, 120-B, 506 and 323 of the Indian Penal Code at Police Station, Division No.5, Civil Lines, Ludhiana.

Learned counsel for the petitioner submits that although it is a matter of record that petitioner sold the house in question to the complainant for an amount of Rs.67 lacs, however, possession thereof could not be handed over to the complainant because the wife of the petitioner moved the court of Judicial Magistrate under the Protection of Women from Domestic Violence Act, 2005 ('Domestic Violence Act, 2005' for short) wherein an order was passed in her favour. In this regard, he places reliance on order dated 2.11.2013 passed by the learned Judicial Magistrate 1st Class, Ludhiana (Annexure P-1). Further, he refers to the reply filed by the petitioner to a petition filed by his wife under Section 23 of the Domestic Violence Act, 2005, wherein the petitioner has taken this stand in para 2 of preliminary objections that there was an understanding between the petitioner and the complainant. The complainant was supposed to get a

deal settled for a three rooms flat and the possession of the house in question would be handed over to the complainant by the petitioner only after the petitioner would shift to the three rooms flat. He prays for allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has not been found entitled for concession of anticipatory bail, at the hands of this Court. It is so said because the petitioner has received an amount of Rs.67 lacs as far as back on 21.11.2012 and 18.2.2013 from the complainant at the time of registration of two sale-deeds for the house which was earlier owned by the petitioner. However, it seems that petitioner in connivance with his wife got filed a petition under Section 23 of the Domestic Violence Act, 2005, wherein the order dated 2.11.2013 (Annexure P-1) was passed. Even if the order dated 2.11.2013 was passed by the learned Judicial Magistrate 1st Class, Ludhiana, yet the same would not be treated to be a stay in handing over the possession of the house in question by the petitioner to the complainant. It is so said because petitioner would be always at liberty to provide an alternative accommodation to his wife or pay monthly rent in lieu thereof. Having said that, this Court feels no hesitation to conclude that petitioner was proceeding on one or the other misconceived and illegal approach with a view to prolong his illegal possession in the house in spite of its sale way back in the month of November 2012 and February 2013 for an amount of Rs.67 lacs.

In view of the above and without commenting anything further on merits, at this stage, lest it should prejudice the rights of either of the parties, custodial interrogation of the petitioner would be a compulsive necessity of the investigating agency so as to conduct an effective investigation. No case for anticipatory bail is made out.

Dismissed.

8.6.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE