

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-19773 of 2015

Date of Decision: October 14, 2015

Roop Chand

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

-. -

Present:- Mr.Mohd. Yusuf, Advocate
for the petitioner.

Ms. H.K. Athwal, DAG, Punjab.

Mr. Rishi Kaushal, Advocate.

-. -

M.M.S. BEDI, J. (ORAL)

Petitioner has filed this petition under Section 438 Cr.P.C. for grant of pre-arrest bail in a case registered at the instance of Joginder Singh Banga alleging that he is an NRI and he had given a special power of attorney on March 20, 2007 to the petitioner. Besides this, another general power of attorney was given to the petitioner which was registered in the office of Sub Registrar, Jalandhar. The petitioner on the basis of said special power of attorney dated March 20, 2007 has sold House No. 2, situated at

Deol Nagar, Nakodar Road, Jalandhar to Smt.Balbir Kaur for a total consideration of Rs.43 lacs and out of said sale consideration, petitioner had received Rs.8 lacs as earnest money. The petitioner had executed and registered the sale deed in favour of Balbir Kaur on June 26, 2007. He had allegedly received the sale consideration of the property but did not deliver the same to the complainant causing undue loss to the complainant and corresponding undue gain to himself. The petitioner has also allegedly dealt with various transactions on behalf of the complainant on the basis of the Special as well as General Power of Attorney. Petitioner is real nephew (sister's son) of the complainant and had allegedly cheated the complainant having received sale consideration to the extent of Rs.65 lacs and shown the sale consideration in the sale deed for Rs.8 lacs. The complainant had sent a sum Of Rs.15 lacs to the petitioner for purchase and construction of the property in Village Safipind, District Jalandhar as per his assurance but he purchased 17 marlas 9 sq. ft. from one Ranjit Singh for Rs.3.41 lacs in his own name. Mutation of the said property has been entered and sanctioned in favour of the petitioner to the extent of 32/3628 shares as per the jamabandi for the year 2008-09. The petitioner admitted his guilt by the intervention of the family members and agreed to return the amount obtained by him from Smt. Balbir Kaur. He had purchased stamp papers worth Rs.2.80 lacs for the purpose of transferring the property measuring 17 marlas 9 sq. ft. purchased by him, in the name of complainant but draft sale deed was prepared only for 10 marlas out of the total property of 17 marlas 9 sq. ft. The petitioner

issued cheque dated December 2, 2014 for a sum of Rs.2,52,000/- drawn on the Bank of India and applied for NOC from M.C. Jalandhar by depositing Rs.34950/- which was borne by the complainant. The petitioner has caused financial loss and damage to the complainant by preparing forged documents.

Counsel for the petitioner has vehemently contended that the FIR has been registered after a gap of 8 years. He claims that the sale deed had been executed by the petitioner in June 2007 with the consent and permission of the complainant. He has argued that the petitioner has joined investigation and that he is ready to amicably resolve the dispute with his maternal uncle who is complainant in this case.

A fair opportunity had been granted to the petitioner to amicably settle the dispute with his uncle.

I have heard learned counsel for the petitioner, State counsel, counsel for the complainant and gone through the record. The petitioner has got fiduciary relationship with his uncle who is an NRI. The complainant considered the relationship of faith in the petitioner to alienate the property of the complainant but the petitioner has apparently misappropriated the property and the amount received by him by alienating the same. Enough opportunity was granted to the petitioner to settle the dispute with the complainant who is his maternal uncle. A casual approach has been adopted by the petitioner and bonafide of the petitioner appears to be lacking. Grant of bail to the petitioner in such circumstances will certainly hamper the fair

investigation. No extraordinary exceptional circumstances exist to grant the concession of pre-arrest bail to the petitioner.

The petition is dismissed.

October 14, 2015
sanjay

(M.M.S.BEDI)
JUDGE