

**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

**Crl. Misc. No. M-24598 of 2014**

**Date of decision : September 03, 2015**

**Krishan Nandal**

**..... Petitioner**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. P.S. Ahluwalia, Advocate  
for the petitioner

Mr. G.S. Salwara, DAG Haryana

Mr. Anshuman Dalal, Advocate  
for respondent No. 2

**ANITA CHAUDHRY, J.(ORAL)**

The petitioner is seeking anticipatory bail in FIR No. 438 dated 02.08.2013 registered at Police Station Civil Lines Rohtak, District Rohtak under Sections 406, 420, 467, 468, 471, 506 IPC.

A complaint was given by Gaurav Jain against the petitioner and one Anup Lakra. Allegations were levelled that the petitioner had forged an agreement to sell by forging the signature and thumb impressions of the owners and had shown that the amount had been paid and in that manner had taken money from the complainant as his contribution but it was later discovered that the owners had not agreed to sell their land.

Learned counsel for the petitioner contends that interim protection had been granted on 23.7.2014 but another case was

registered and the petitioner was arrested in FIR No. 320 in another Police Station of another District. It was urged that it was a dispute with respect to the shares and it is a dispute which is civil in nature and enquiry was held and the Superintendent of Police had given a report that it was a civil dispute. It was urged that some political heavy weights were partners of the complainant and thereafter another enquiry was marked and the DSP who is subordinate to the SP enquired into the matter and FIR was lodged. It was urged that the petitioner had cooperated and had also given the specimen signatures and the agreement to sell does not bear his signatures. It was urged that the dispute only remains with respect to Rs. 2 crores which had been forfeited and the complainant is asking for return of Rs. 54 lacs but in another transaction on account of fault of the complainant the earnest money was forfeited as the complainant did not provide his share. It was urged that the complainant had also filed a suit. It was urged that the contents of both the FIRs are similar and the petitioner has already joined the investigation and was cooperating and the concession be extended till the end of the trial.

The complainant as well as the State have opposed the prayer and it has been urged that the police had called the owners and they had stated that no agreement was entered into. It was urged that the petitioner had forged agreements showing higher amounts and it was also found that two persons whose names were mentioned had died three years ago. It was urged that petitioner took money from the partners with the sole intention to cheat and the

intention was from the very beginning.

Learned State counsel had urged that 5 enquiries had been marked and with respect to two agreements it was found that the land had been purchased but land was got transferred in the name of his wife and not in the name of the partners. It was urged that the receipt book handed over by the petitioner was also found to have fake entries and recovery is to be effected and custodial interrogation is required. He further submitted that they have given a detailed reply and the manner in which the matter came up before the Deputy Superintendent of Police (HQ), Rohtak. It was urged that an enquiry was conducted by the SHO, Police Station Urban Estate who had sent the enquiry to the SP showing that it was matter civil in nature but a complaint was given to the Inspector General of Police, Rohtak Range, Rohtak which was marked to the Superintendent of Police who in turn marked it to the DSP Head Quarters and thereafter the FIR was lodged.

Responding to the arguments, learned counsel for the petitioner urges that two persons whose names are shown in the agreement to sell had given an affidavit in favour of the petitioner.

The allegations against the petitioner are serious. Two persons have been named in the FIR. One of them is absconding. In the preliminary investigation, the police had found that persons who are said to have agreed to sell their land had died three years ago. The allegations against the petitioner are that he had forged the agreements even showing a higher amount as paid to those zimindars and infact lessor amount was paid and this was done with

a view to extract more money from the partners. It has also come out in the investigation that the receipts shown by the petitioner were forged.

Section 438 Cr.P.C. is an extra ordinary remedy and protection can be granted considering the material and facts of a given case. The allegations against the petitioners are grave. Custodial interrogation would be necessary. It would be difficult to carry out investigation with the protective umbrella. It is necessary to curtail their freedom to enable the Investigators to proceed. No fetters can be placed upon the Investigators.

The petition is dismissed.

**September 03, 2015**

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**(ANITA CHAUDHRY)  
JUDGE**