

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

**Crl. Misc. No.M-29049 of 2014
Date of decision :28.04.2015**

Satinderjit Singh Bajwa

.....Petitioners

versus

State of Punjab

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. Onkar Singh, Advocate
for the petitioner.

Mr. V.P.S. Sidhu, Asst. A.G. Punjab.

Mr. J.B.S. Gill, Advocate
for the complainant.

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ANITA CHAUDHRY, J.

This petition had been filed under Section 439 Cr.P.C. seeking regular bail in FIR No.77 dated 30.06.2014, registered under Sections 406 & 420 IPC, P.S. Garh Shankar, District Hoshiarpur.

A complaint had been lodged by Kulwinder Kaur with whom the petitioner had entered into an agreement to sell of 18 Kanals of land. The land was stated to be owned by Jeeto and Roshan. The rate was settled at Rs.9.5 lacs per acre. Satinderjit Singh received Rs.25 lacs as earnest money

and the sale deed was to be executed on 25.02.2013. It was also agreed that if Satinderjit Singh failed to execute the sale deed within the agreed time then he would give double the amount to Kulwinder Kaur and in case Kulwinder Kaur failed to perform her part of the agreement then the earnest money was to be forfeited.

The parties entered into another agreement Annexure P-7 on 25.03.2013 as Satinderjit failed to execute the sale deed and it was agreed that he would pay Rs.5 lacs to Kulwinder Kaur on 11.04.2013 and the balance amount on 30.07.2013. Still the payment was not made. A complaint was made to the police and the FIR was registered. The petitioner was arrested. His bail application was dismissed by the Additional Sessions Judge, Hoshiarpur on 06.08.2014.

When the matter was taken up by co-ordinate Bench on 01.09.2014, the complainant side had appeared and had offered that if the money was returned to the complainant then the matter could be resolved by sending it to the Mediation Centre. The case was adjourned for 05.09.2014. The co-ordinate Bench directed the petitioner to deposit Rs.3 lacs before the trial Court and allowed interim bail so that the parties could reach an amicable settlement. They were also asked to appear before the Mediation Centre.

Report from the Mediation Centre was received that the parties could not reach at any settlement.

Counsel for the petitioner now contends that the petitioner was unable to execute the sale deed at that point of time but now the owners are ready to execute the sale deed and notice was sent and the petitioner was present in the office of Sub-Registrar but Kulwinder Kaur failed to appear and Satinderjit Singh had got his presence marked and had executed an affidavit and had also informed the SHO concerned but Kulwinder Kaur was now backing out. It was urged that it was a civil dispute and there are no allegations of fraud or dishonest intention and it is not a case of cheating. Reliance was placed upon ***Suresh Vs. Mahadevappa Shivappa Danannava and another 2005(2) RCR (Criminal) 29*** and ***Paghdal Vs. State of Gujrat 2012(2) RCR (Criminal) 715.***

The bail application is opposed by the complainant as well as the State and it was urged that interim bail was allowed to the petitioner so that a settlement could be effected and on the very first day the complainant had made it clear that she wanted her money back. It was urged that the petitioner had cheated the complainant as the petitioner was not the owner nor Jeeto and Roshan were owners of 18 Kanals of land and they had only a share. It was urged that the petitioner was now referring to some more agreements in his favour but there is no G.P.A. in his favour nor he could execute the sale deed and

Jeeto and Roshan did not own the entire land as was projected in the agreement and the petitioner was not entitled to bail.

The agreement was entered into on 25.07.2012. The date of registration of the sale deed was February, 2013. A month later Satinderjit Singh in March, 2013 admitted in the agreement Annexure P-7 that he was unable to execute the sale deed and promised to return the amount by 30.07.2013. The amount has not been returned even till date. Mediation had also failed. Interim bail had been allowed for the purpose that the matter could be sorted out giving one more opportunity to the petitioner and he has failed. The allegations are serious. The petitioner did not have the authority/GPA nor Jeeto or Roshan owned 18 Kanals of land. The complainant is alleging cheating at the hands of the petitioner. Considering the gravity and nature of the offence, no ground for bail is made out. The petition is dismissed. The petitioner would surrender within three days before the trial Court. In case he fails to surrender, the trial Court would issue warrants of arrest.

A copy of this order be sent to the trial Court.

(ANITA CHAUDHRY)
JUDGE

28.04.2015

Sunil