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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29780 of 2014

Date of decision: September 18, 2015

Kewal Krishan

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Tejinder Pal Singh, Advocate
for the petitioner.

Mr. R.P.S. Sidhu, AAG Punjab.

Mr. Sunil Garg, 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.93 dated 09.07.2014, under Sections 420, 120-B of Indian Penal Code, 1860, registered at Police Station City Lehra, District Sangrur.

While issuing notice of motion, following order was passed by this Court on 01.09.2014:-

"Learned counsel for the petitioner submits that the petitioner is ready and willing to execute the sale deed in favour of the complainant.

Notice of motion to Advocate General, Punjab for 10.11.2014.

In the meantime, the petitioner shall appear before the Investigating Officer on 8.9.2014 at 11.00 a.m. and join the investigation. In the event of his arrest, he be admitted to interim bail by the Investigating Officer/Arresting Officer to his satisfaction. He shall, however, abide by all the conditions as envisaged by Section 438(2) Cr.P.C.

To be heard along with CRM No.M-27112 of

2014.”

The case was adjourned from time to time to enable the parties to amicably settle their dispute.

On 23.03.2015, following order was passed by this Court:-

“Petitioner's counsel states that on 20.2.2015, as per the last order, petitioner - Kewal Krishan had gone to the office of the Sub Registrar, Lehra (Sangrur) and wanted to get himself marked present but the said Registrar refused to entertain the application stating that there was no provision in the procedural law. Only one line in the application and the accompanying affidavit said that Kewal Krishan – petitioner was present with actual owner. It is, therefore, not shown from the document the Bansat Kumar, actual owner was present for getting the sale deed registered. Similarly complainant Goldy son of Raj Kumar was also present as stated by his counsel, but according to him the actual owner had not turned up on 20.2.2015 for executing the sale deed. The original owner Basnat Kumar son of Bhushan Kumar resident of Village Lehra Tehsil Lehra (Sangrur) to be present on the next date.

Counsel for the petitioner undertakes to produce the owner.

Adjourned to 8.5.2015.”

On the last date of hearing, i.e. 27.07.2015, following order was passed by this Court:-

“Original owner was to be produced by the petitioner on 08.05.2015, but request for adjournment was made by counsel for the petitioner on the said date. On the last date, the petitioner was not even represented.

Today, it is submitted on behalf of the petitioner that due to marriage of his nephew,

Basant Kumar is unable to appear. If Basant Kumar does not appear on the next date, the matter shall be heard on merits.

List on 18.09.2015.”

Today again, Basant Kumar has not appeared.

Learned State counsel who is assisted by Head

Constable Harbans Singh has submitted that, although, petitioner has joined investigation but recovery is yet to be effected.

In the present case, allegation against the petitioner is that he had executed an agreement to sell qua the plot in question in favour of the complainant and had received ₹6,33,000/- by way of earnest money but petitioner was not in fact, the owner of the plot in question.

Keeping in view the seriousness of allegations levelled against the petitioner and the fact that despite opportunity, petitioner has failed to produce the original owner and recovery of the amount in question has not been effected, no ground for grant of anticipatory bail to the petitioner, is made out.

Dismissed.

(SABINA)
JUDGE

September 18, 2015
mahavir