

In the High Court of Punjab and Haryana at
Chandigarh.

CRM-M-36163 of 2013
Date of Decision:- 02.02.2015.

Tajinder Singh and another

Petitioners.

Versus

State of Haryana

Respondent.

CORAM : HON'BLE MRS.JUSTICE LISA GILL.

Present: - Mr.Sanjeev Gupta, Advocate,
for the petitioners.

Mr. Pawan Girdhar, Addl. A.G., Haryana.

Mr. Vikram Singh, Advocate,
for the complainant.

LISA GILL,J. (Oral)

Petitioners pray for the grant of bail pending trial
in FIR No.132 dated 10.04.2012 under Sections 420, 467,
468, 471 and 120-B, IPC registered at Police Station, Civil
Lines, Bhiwani, Distt. Bhiwani.

It is contended that the petitioners have no
concern with the controversy in hand. It is the petitioners'
father who is the owner of the property. They are neither
mortgagor nor guarantors. The present petitioners have
been falsely implicated. It is further submitted that in a
similar matter, petitioners have been granted bail pending

trial by this Court on 05.08.2013 in CRM-M-17748 of 2013 (Annexure P-23). They have been granted the concession of bail pending trial in FIR No.127 dated 23.04.2011 registered at Police Station Civil Lines, Bhiwani by the Hon'ble Supreme Court on 05.09.2014 (Annexure P-8). Petitioners are stated to be in custody since 27.02.2013. Learned counsel for the petitioners submits that out of the total amount of ₹ 2,01,06,000/- to be paid to HSIIDC, a sum of ₹1,88,56,000/- has already been deposited. Hence, the petitioners are entitled to bail pending trial.

Learned counsel for the State, on instructions from Sub Inspector Rattan Singh, submits that there are as many as five similar cases pending against the petitioners out of which they have granted the concession of bail pending trial in two cases. It is further informed that the petitioners' father Maan Singh has been declared a proclaimed offender in this case.

I have heard learned counsel for the parties.

As per the allegations in the FIR, the petitioners alongwith their father Maan Singh are stated to have defrauded the complainant, namely, Ram Karan by projecting that their land in two parcels, one measuring 82 Kanal-15 Marla and another measuring 43 Kanal- 5 Marla was available for sale, free from all sorts of encumbrances.

The agreement to sell was entered into. 82 Kanal-15 Marla land was purchased for a sum of ₹68,27,000/- vide sale deed No. 5464 and land measuring 43 Kanal-5 Marla was purchased for a sum of ₹35, 69,000/- vide sale deed No.7516 claiming it to be free from all encumbrances. Payment was made through cheque to Maan Singh and his sons, the present petitioners. Mutation was entered but at a later stage it was cancelled. It is then that the complainant came to know that the petitioner's father and the petitioners for their Rolling Mill, had taken a loan of ₹500 lacs from HSIIDC, Bahadurgarh on 28.07.2000 and ₹240 lacs from Overseas Bank on 10.06.2002 against the above said land. Petitioners along with their father in connivance with revenue officials are alleged to have cheated the complainants by projecting forged documents to be genuine. A forged Haryana Kshetriya Gramin Bank encumbrances certificate and no due certificate was used by them. HSIIDC and Indian Overseas Bank also lodged criminal proceedings against the petitioners. It is in the FIR lodged by HSIIDC and Indian Overseas Bank that the concession of bail pending trial has been afforded to the petitioners.

At the time of issuance of notice of motion in this case, petitioners had contended that they are ready to pay the remaining outstanding amount to HSIIDC. Order dated

29.10.2013 reads as under:-

“ Contends that petitioners have been continuing in custody since 27.02.2013 and that they are ready to pay the remaining outstanding amount to HSIIDC.

Notice of motion to Advocate General, Haryana for 04.12.2013.”

Despite number of opportunities, the entire outstanding amount was not paid to HSIIDC.

On 29.11.2014, it had been submitted by learned counsel for the petitioners that HSIIDC had afforded time till 10.01.2015 to make good the entire payment due to the HSIIDC. It was undertaken that entire amount would be made good by that date and No Objection Certificate would be handed over to the complainant. However, it was, thereafter informed on 12.01.2015 that extension of time has been sought for making good the said payment.

Involvement of the petitioners in the said controversy in hand is clear from their conduct. To say that they have no interest or involvement in the entire dispute cannot be held at this stage. They have been extended the benefit of bail pending trial in the matter where the substantial amount has been paid to the Financial

Institution.

In the present case, the complainant has made the entire payment of the agreed amount of sale. Sale deed was executed on the basis of false and fraudulent No Dues Certificate, therefore, the case is entirely distinguishable from the other two FIRs. The contention of the learned counsel for the petitioners that the agreement to sell with the complainant, Annexure P-9, shows that the complainant was aware about the mortgage of the property is not tenable. A perusal of Annexure P-9 shows that the recital reads as:-

“ The said mentioned property is mortgaged with Haryana Kshetriya Gramin Bank, Bhiwani, beside this it is free from any kind of loan encumbrances.”

There is no mention of any mortgage with the HSIIDC for a sum of ₹2 crores and neither any such entry exists in the revenue record. In-spite of one time settlement (OTS) with the bank complete payment has not been made. Despite seeking adjournments on various occasions and especially on 29.11.2014 wherein it was stated that entire payment would be made by 10.01.2015 and 'No objection certificate' would be handed over to the complainant, no action was taken.

It does not lie with the petitioners at this state to contend that they are not concerned with the controversy in hand and it is only their father, admittedly a proclaimed offender in this case, who would be liable for the offence, if any.

Keeping in view of the facts and circumstances of the case, no case is made out for grant of bail pending trial to the petitioners.

This petition is accordingly dismissed.

None of the observations made hereinabove is a reflection on merits of the case and shall have no bearing on the trial.

(LISA GILL)
JUDGE

02.02.2015.
Anoop