

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-37743 of 2015

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Date of decision:28.11.2015

Om Parkash

.....Petitioner

v.

State of Punjab

.....Respondent

....

Present: Mr. Manu Loona, Advocate for the petitioner.

Ms. Shivali, Assistant Advocate General, Punjab
for the respondent-State.

Mr. D.K. Sihag, Advocate for the complainant.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.95 dated 12.8.2015 registered for the offence under Section 420 IPC at Police Station City Fazilka, District Fazilka.

Notice of motion has been issued in this case.

Ms. Shivali, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and Mr. D.K. Sihag, learned Advocate appeared for the complainant and contested this petition. Police record is also available.

I have heard learned counsel for the petitioner, learned Assistant Advocate General, Punjab appearing for the respondent-State and learned counsel for the complainant and have gone through the record.

From the record, I find that the FIR in the present case has been

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registered on the basis of application of the complainant. As per the prosecution version, present petitioner Om Parkash entered into agreement to sell land measuring 24 Kanals with the complainant and ₹20 Lacs were paid as earnest money. The main allegation is that the present petitioner also hypothecated the land with the Bank and borrowed the loan.

At the time of arguments, learned counsel for the petitioner argued that as per the prosecution version loan of ₹8 Lacs has been obtained from the Bank. This fact has already been decided in the civil suit and relief has been given by the Court that if no amount found to be more than the sale consideration recovery rights have been given to the complainant as per the judgment dated 3.8.2015.

The petitioner has already joined the investigation. He is not required for custodial interrogation. No useful purpose will be served by sending the petitioner to custody.

Keeping in view the facts and circumstances of the present case; without discussing the facts in minute detail and without expressing any opinion on the merits of the case, I find merit in this petition and the same is allowed. The interim order dated 19.11.2015 passed by this Court granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions of Section 438 (2) Cr.P.C.

November 28, 2015.

(Inderjit Singh)
Judge

hsp