

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr.Misc. M 38354 of 2014
Date of decision:- 15.1.2015

Bhajan Singh & ors

Petitioner

vs.

State of Punjab

Respondent

Present: Mr. Ramneek Vasudeva, Advocate.
Mr. CS Brar, DAG, Punjab
Mr. Rajiv Kataria, Advocate.

M.M.S.BEDI,J.

The petitioners seek the concession of pre-arrest bail in a case registered at the instance of Anil Kumar alleging that the petitioners had entered into an agreement of sale with the complainant on receipt of earnest money of Rs. 10 lacs but the property had been sold to a third party, not honouring the agreement.

Counsel for the petitioners has submitted that the date of sale deed, fixed as per the agreement was 15.2.2012 but the complainant did not appear on the said date for execution of the sale deed. The claim of the complainant is that the date was extended for two months. The said contention is controverted by counsel for the petitioner contending that the complainant has fabricated the signatures of the petitioners to extend the period of two months.

I have heard counsel for the parties. The petitioners had been granted the concession of interim bail subject to their paying a sum of Rs. 5 lacs, in the shape of a bank draft in the name of the complainant, without prejudice to the rights of the parties to recover the remaining amount or to seek performance of the terms of the agreement. It has been informed that

though no suit for specific performance has been filed by the complainant but a suit for injunction and declaration challenging the sale deed, without affixing the requisite court fee, has been filed by the complainant.

After taking into consideration the circumstances of the case, it appears that during the course of trial, it will be debatable whether it is a case of exclusive civil liability or a liability which is coupled with the element of criminality. It will not be feasible for this court to appreciate whether the amount received by the petitioners through the complainant, who is a property dealer, was adjusted by the subsequent sale deed executed through the same complainant and that the liability stands impliedly discharged. Taking into consideration the totality of the circumstances, the petitioners can be granted the concession of pre-arrest bail subject to a condition that they will deposit 50% of the total liability without prejudice to the right of the complainant to press for the recovery of the remaining amount by adopting appropriate procedure of civil law.

Accordingly, the petition is allowed and interim order dated 12.11.2014 is hereby confirmed and it is ordered that in case of arrest of the petitioners, they will be released on bail to the satisfaction of the arresting officer subject to the condition that they will join the investigation as and when required by the police and will not tamper with evidence or hamper the investigation. A sum of Rs.5 lacs would be payable to the complainant subject to final adjudication of the dispute. It is observed here that the said amount has already been paid and released to the complainant.

The above said arrangement will not, in any manner, prejudice the right of the parties before any forum, deciding the civil dispute.

January 15 , 2015
TSM

(**M.M.S.BEDI**)
JUDGE

