

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

CRM-M-41130 of 2015

Date of decision : 21.12.2015

Alowk Rustagi

...Petitioner (s)

Versus

State of Haryana

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. S. K. Sehajpal, Sr. Advocate
with Mr. Munish K. Garg, Advocate
for the petitioner (s).

Mr. Yashwinder Singh, DAG, Haryana
assisted by ASI Virender Singh.

Mr. Rahul Bhargawa, Advocate for the complainant.

JITENDRA CHAUHAN, J. (Oral)

By filing the present petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in a case FIR No.70, dated 29.01.2015, registered under Section 420 of the Indian Penal Code (IPC), at Police Station Sadar, Gurgaon.

The learned Senior counsel for the petitioner refers to Annexure P-3, wherein the complaint filed by the present complainant for the same cause of action as alleged in the present FIR, was examined by the Assistant

Commissioner of Police, Sadar, Gurgaon. The Assistant Commissioner of Police, has reached to the conclusion that it is a matter of civil nature and stated that the petitioner had received Rs.67,47,500/- for all the 22 plots in question. The petitioner had entered into an agreement to sell (Annexure P-5) with the land owner and had received the part payment of sale consideration from the applicants of the project i.e. Gateway Residency. It is contended that no offence under Section 420 IPC is made out, as there is no allegation showing any forgery or fabrication on the part of the petitioner.

The learned State counsel as well as the learned counsel for the complainant state that the petitioner had launched the scheme under the name and style of Gateway Residency. The petitioner claimed to be the owner of the Khasra numbers, which are earmarked for the alleged project. However, on verification, it was found that the petitioner is not the owner of the said khasra numbers. The petitioner had launched the alleged project for more than 700 plots, on the basis of the agreement to sell (Annexure P-5) and collected amount of Rs.67,47,500/- from the complainant and other persons. The owners of the land are not party to the allotment made for or on behalf of the company headed by the petitioner. The learned State counsel further states that as many as three other complaints have been received against the petitioner.

I have heard the learned counsel for the parties and perused the record carefully.

Considering the fact that the petitioner has committed fraud with

the complainant and many similarly placed persons by taking their money for providing plots in the project i.e. Gateway Residency, as the land earmarked for the said project is not owned by him and the fact that number of complaints have been received against the petitioner, no case for bail is made out at this stage.

Dismissed.

Nothing expressed hereinabove would be taken to be an opinion on merits of the case.

21.12.2015

ashok

(JITENDRA CHAUHAN)
JUDGE