

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

CRM-M-6528-2015

Date of decision: 14.12.2015

Kasturi Lal

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. B.S. Rana, Senior Advocate with
Mr. Viren Jain, Advocate
for the petitioner.

Mr. Daljit Singh Virk, AAG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for the complainant.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks pre-arrest bail in FIR No.124 dated 08.12.2014 under Sections 420, 120-B of the Indian Penal Code ('IPC' for short), registered at Police Station Sadar Sangrur, District Sangrur.

Learned Senior Counsel for the petitioner submits that the agreement to sell (Annexure P-3) was entered into between the parties. However, since the petitioner could not develop the land intended to be sold, the date of proposed sale was extended twice over with the consent of both the parties. Finally, both the parties agreed on mutual terms on 02.01.2014, available at page 31-32 of the paper book, whereby petitioner repaid an amount of Rs.90 lacs to the complainant and for the remaining amount of Rs.60 lacs, he undertook to transfer the land measuring 1400 square yards in favour of the complainant. In addition to that, a plot measuring 500 square

yards was also agreed to be transferred in the name of the complainant towards the amount of interest. He also submits that petitioner is still ready and willing to transfer total area measuring 1900 square yards in the name of the complainant, out of same area bearing plot Nos.290 to 344, which is still in the possession of the petitioner and for which, he is very much entitled in law to get the sale deed registered. Learned Senior Counsel for the petitioner would next contend that so far as the petitioner is concerned, he is and will remain bound to transfer 1900 square yards in favour of the complainant, as and when he feel like to get the same transferred by way of registered sale deed. He submits that let the complainant get the abovesaid land measuring 1900 square yards transferred in his name tomorrow or day after or at a later point of time. Learned Senior Counsel for the petitioner concluded by submitting that since the petitioner has already joined the investigation and matter is purely of civil nature, his custodial interrogation would not be required for the purpose of any further investigation. He prays for allowing the present petition.

Learned counsel for the State, on instructions from ASI Sukhwinder Singh, Police Station Sadar Sangrur, fairly states that in compliance of the orders passed by this Court, petitioner has joined the investigation and he is no more required for the purpose of any further investigation.

However, learned counsel for the complainant vehemently opposes the present petition, contending that petitioner has been playing hide and seek with the complainant as well as with the Court. He further submits that at the time of two extensions i.e. on 21.11.2013 and 04.12.2013 referred

to at page 30-31 of the paper book, petitioner never disclosed the material facts to the complainant that he had already sold that very area, which was intended to be sold in favour of the complainant. He also submits that since the petitioner was neither owner in possession nor he was competent to transfer the land in favour of the complainant which he has offered to sell, petitioner was not proceeding on a bonafide approach and he was trying to misuse the process of law. Learned counsel for the complainant would next contend that petitioner has clearly committed the offence under Section 420 IPC and he is not entitled for the concession of anticipatory bail. Learned counsel for the complainant refers to the report dated 19.10.2015 furnished by learned Local Commissioner, in compliance of the order dated 08.10.2015 passed by this Court and submits that since there is no path available for ingress and egress, petitioner cannot transfer the abovesaid area in favour of the complainant. He prays for dismissal of the present petition.

After hearing the learned counsel for the parties at considerable length, going through the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case noticed hereinabove, petitioner has been found entitled for the concession of anticipatory bail. It is so said because petitioner has tried to show his bonafide to transfer exactly the same piece of land which was agreed between the parties vide their mutual settlement arrived at between them on 02.01.2014 at page 31-32 of the paper book. It was also clarified by learned Senior Counsel for the petitioner that since the petitioner was earlier having been power of attorney suffered in his favour by original owner Bawa Singh,

he had sold the same land in favour of his own family members and thereafter, said family members have suffered their respective power of attorneys in favour of the petitioner, on the basis of which he was very much competent to transfer the abovesaid piece of land in favour of the complainant.

In view of the above, it prima facie seems that the complainant is no more interested in getting the land transferred in his name probably for the reason that during the interregnum, prices of land in the area have gone down. It is also a matter of record that complainant has not filed any suit for specific performance. The offer made by the petitioner to transfer the same very land which was agreed to be sold in favour of the complainant, has been found to be a genuine offer by this Court. However, said offer is not being accepted by the complainant for the reasons best known to him. The issue of path for the purpose of ingress and egress has also been put into service by learned counsel for the complainant, after getting instructions from the complainant, who is present in the Court, only for the purpose of opposing the present petition but the same has been found without any substance.

In view of the above and without commenting anything further on merits at this stage, lest it should prejudice the case of either side at a later point of time, instant petition is allowed and the order dated 27.02.2015 passed by this Court, is hereby made absolute, however, subject to the conditions envisaged under Section 438 (2) Cr.P.C.

Disposed of, accordingly.

[RAMESHWAR SINGH MALIK]
JUDGE

14.12.2015
vishnu