

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

**Crl. Misc. No.M-8098 of 2015.
Date of decision : 26.03.2015**

Sat Parkash and another

.....Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. Arshdeep Singh Cheema, Advocate
for the petitioners.

Mr. S.S. Pannu, DAG, Haryana.

Mr. N.S. Shekhawat, Advocate
for the complainant.

ANITA CHAUDHRY, J(ORAL)

The petitioners are seeking anticipatory bail in FIR No.167 dated 16.02.2015, registered under Section 406, 420, 506 IPC, Police Station City Karnal, District Karnal.

The allegations made by the complainant are that the petitioners took the original agreement on the pretext that it was to be photocopied but then fled away. The role assigned to petitioner no.2 is that he took the original agreement with him. The backdrop of the case which led to lodging of the FIR, which the petitioners now admit is that petitioner no.1 had entered into an agreement to sell dated 20.06.2013 which was with respect to 2 Kanals of land out of 10

Kanals owned by him. An entry regarding the agreement was made in the register. A sum of Rs.15 lacs was paid and was transferred in the account of petitioner no.1 by way of direct transfer. Another agreement was executed on 11.03.2014 where the land agreed to be sold was stated to be 4 Kanals and the total consideration payable was Rs.1 Crore, out of which Rs.80 lacs were paid in cash. Thus, a payment of Rs.95 lacs is stated to have been paid by the complainant. An entry regarding this was also made in the register. The original agreement dated 11.03.2014 is stated to have been taken away by the petitioners. The police on these allegations have registered the FIR. The petitioners approached the Addl. Sessions Judge for anticipatory bail. Their bail application was dismissed on 03.03.2015.

On the last hearing, reference was made to Annexure P-4 and it was found that the last column was lying blank. The complainant side had pointed that the entry had also been signed by petitioner no.1. Today learned counsel for the petitioners has placed on record the photocopy of the entry contained in the register. The agreement dated 11.03.2014 is Annexure P-5.

Learned Senior Counsel for the petitioners contends that the FIR could not have been registered under Section 406, 420 IPC and at the most Section 477 IPC could have been invoked and no case is made out as the documents are still available and have been placed on record. It was urged that earlier the agreement was for 2

Kanals which was to be sold for Rs.15 lacs and it is unbelievable that 4 Kanals land would be agreed to be sold for Rs.1 Crore. It was urged that it cannot be judged at this stage as to which party is at fault and it is for the Civil Court to decide. It was then contended by learned Senior Counsel that petitioner no.2 is not signatory to any document and he has been wrongly framed to pressurize them. It was urged that custodial interrogation is not necessary and anticipatory bail may be allowed to the petitioners.

The bail application was opposed by the complainant as well as the State. It was urged that on the last date copy of the entry of the register had not been placed on file and initially they were denying the execution of the agreement of 2014. It was urged that in the agreement copy of which is Annexure P-5 as well as in the Annexure P-4, there is a reference to payment of Rs.95 lacs and petitioner no.1 is not illiterate and his signatures are available on both the agreement and the register in English and they are ready to get the sale deed executed on payment of balance amount of Rs.5 lacs. It was urged that the sale deed was to be executed on 10th February, 2014. The date was extended and the complainant had gone to the office of Sub-Registrar to get his presence marked on the agreed date but petitioners failed to appear. It was urged that custodial investigation is necessary and the original agreement has to be recovered and without the active participation of petitioner no.2, petitioner no.1 could not have succeeded.

The execution of the agreement dated 20.06.2013 has not been disputed by both the parties. It is not disputed that a sum of Rs.15 lacs was paid and the amount was transferred. The dispute arose subsequently when another agreement dated 11.03.2014 was executed. The parties had approached a Deed Writer and there is an entry regarding that agreement. The entry is signed. The entry made in the register was admittedly signed by petitioner no.1. There is an entry which refers to cash payment of Rs.80 lacs. Petitioner no.1 had disputed the signed agreement. The allegations made by the complainant are that the original agreement was taken away for getting it photocopied after it was signed and it was petitioner no.2 who assisted petitioner no.1 and without his active participation, it could not have been taken away.

The original agreement is not forthcoming. The complainant had placed on record a document showing that the agreement to sell had been executed. The investigation is yet to begin. Custodial investigation is necessary. The original agreement has to be recovered. The amount involved is huge. The complainant has accused the petitioners side of cheating and destruction of valuable security. No case for anticipatory bail is made out.

The petition is dismissed.

26.03.2015
sunil

(ANITA CHAUDHRY)
JUDGE