

CRM-M-11258-2016

Date of Decision : 13.07.2016

Gurpreet Kaur and others

.....Petitioners

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Vaibhav Narang, Advocate
for the petitioners.

Ms. Harpreet Kaur Athwal, DAG, Punjab.

Mr. Karanjit Singh, Advocate
for the complainant.**M.M.S. BEDI, JUDGE (ORAL)**

This order will dispose of an application for pre-arrest bail filed by five accused persons in a case which was registered at the instance of Harinder Pal Singh alleging that complainant-Harinder Pal Singh had entered into an agreement of purchase of two plots from Tejinder Singh and Gurcharan Singh vide an agreement dated 04.04.2012 and paid a sum of Rs. 21.50 lacs as earnest money. The sale deed was executed on 26.06.2012. As per the case of prosecution, Tejinder Singh and Gurcharan Singh were holder of special power of attorney from Promod Kumar who was general power of attorney of Romy Anand, original owner of the two plots. The mischief which is alleged to have been played is that before 26.06.2012, the power of attorney executed by Promod Kumar in favour of Tejinder Singh and Gurcharan Singh was cancelled on 22.05.2012 and Nihal Singh, Uttam Singh and Brij Mohan were appointed as special power of attorneys of Promod Kumar on 18.06.2012. It is also the case of prosecution that

Tejinder Singh and Gurcharan Singh had attested the power of attorneys in favour of Nihal Singh, Uttam Singh and Brij Mohan as witnesses.

It is pertinent to mention here that an application filed for pre-arrest bail by Gurcharan Singh has been dismissed by this Court vide a separate order in separate petition. As per the story of prosecution Nihal Singh, Brij Mohan and Uttam Singh, on the basis of special power of attorneys, executed on 18.06.2012, executed sale deed in favour of Sarabjit Kaur-petitioner No. 2, Gurpreet Kaur-petitioner No. 1, Neena Kumari non-applicant and Lakhwinder Kaur-petitioner No. 4.

Petitioner No. 2-Sarabjit Kaur is wife of Nihal Singh, holder of special power of attorney of Promod Kumar whereas Lakhwinder Kaur petitioner No. 4 is the wife of other special power of attorney holder, Uttam Singh. It is not disputed that the petitioner-ladies are related to Gurcharan Singh who happens to be brother-in-law of Nihal Singh and Uttam Singh.

I have heard learned counsel for the petitioners, counsel for the complainant as well as the learned State counsel and gone through the police file. A perusal of the documents and the attestation of the documents in favour of Nihal Singh and Uttam Singh and the sale transactions executed by them in favour of their wives clearly indicates the connivance of Nihal Singh and Uttam Singh with Gurcharan Singh who is stated to be a partner with Tejinder Singh and runs the business of property dealing.

Grievance of the complainant is that he has been duped of

his sum of Rs. 21.50 lacs by Tejinder Singh and Gurcharan Singh and his rights have been defeated by execution of the sale deed by Tejinder Singh and Gurcharan Singh in favour of the wives of Nihal Singh and Uttam Singh on the basis of a subsequent agreement of sale after cancellation of the power of attorney in favour of Tejinder Singh and Gurcharan Singh by Promod Kumar.

The totality of the above said circumstances indicates the web of relationships amongst the petitioners had been existing with an objective to defeat the right of Harinder Pal Singh complainant. Petitioner Nos. 1,2 and 4 are the beneficiaries of the sale proceeds. Petitioner Nos. 3 and 5 have executed the sale deed apparently in a fraudulent manner. The ladies, petitioner Nos. 1,2 and 4 could have been granted the concession of bail on the ground that they being females, having not taken active steps to dupe Harinder Pal Singh but in view of the conduct that they were present at the time of sale executed in their favour and they have further sold the property to Neena Arora, I do not find any ground to grant concession of bail to any of the petitioners.

I have also considered the contention of the learned counsel for the petitioners that the right of Harinder Pal Singh to enforce the legal rights to agreement of sale stands forfeited on account of, he having not put in appearance before the Sub Registrar on the appointed date.

I have carefully considered the said contention and I am of the opinion that it is not a stage to determine whether the rights of the purchaser stands defeated on account of the fact that the sellers were

ready and willing whereas the purchaser was not ready and willing to purchase the property. This issue would be controversial issue in the civil litigation, as such, no adjudication is required on the said point in this petition.

Petition is dismissed.

Nothing said in this order will prejudice the rights of the petitioners to seek concession of regular bail. Any thing said in this order will not in any manner affect the adjudication of the civil litigation which is alleged to have been filed by Harinder Pal Singh complainant to enforce the legal rights on the basis of the agreement of sale dated 04.04.2012.

Nothing said in this order will prejudice the rights of the parties to approach this Court again in case the matter is amicably resolved by discharging the liability *qua* the complainant.

(M.M.S. BEDI)
JUDGE

13.07.2016
Neha