

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc. No.M-11483 of 2016

Date of Decision: April 07, 2016

Jiwan Garg and anotherPetitioners

Versus

State of PunjabRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Nirbhay Garg, Advocate for the petitioner.

Mr.KD Sachdeva, Additional Advocate General, Punjab.

Mr.HS Brar, Advocate for the complainant.

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TEJINDER SINGH DHINDSA, J.

Petitioners pray for grant of benefit of regular bail in case FIR No.41 dated 12.2.2016, under Sections 420/406/120-B of the Indian Penal Code (later on added Section 413 of the Indian Penal Code), registered at Police Station Zirakpur, SAS Nagar, Mohali.

2. Learned counsel for the petitioners would submit that the petitioners are father and son and work as partners under the name and style of M/s Royal Empire. It is submitted that on account of a recession in the real estate market and late payment

on the part of the buyers/investors, dispute has arisen and on account of which, the flat in question could not be delivered to the complainant. It is contended that the complainant is acting at the behest of a land mafia and the FIR in question is nothing but a pressure tactic with the oblique objective to take over the land and housing project of the petitioners worth crores of rupees and without any consideration. Yet another submission raised is that even as per terms of agreement entered into between the parties, there is a civil remedy available for any breach of terms and conditions contained therein and a civil dispute is being given the colour of a criminal offence.

3. Having heard learned counsel for the petitioners at length and having perused the pleadings on record, this Court is not inclined to grant to the petitioners the benefit of regular bail at this stage.

4. Suffice it to observe that FIR came to be registered on the complaint of Mr.Rishav Garg who had stated that in the year 2010, he had got in touch with the accused/present petitioners and had booked an apartment in the project i.e. Royal Empire and the deal was finalized for a total sale consideration of ₹29,25,000/-. Thereafter, the complainant is stated to have made the payments as per time schedule and an amount of ₹11 lacs stands made over to the petitioners and for which receipts were duly issued. Allegation is that the complainant has been defrauded and the petitioners had an intent to cheat right from the beginning inasmuch as the construction has been stopped and the petitioners have even defaulted as regards the payments

that were due to the Bank i.e. Indian Overseas Bank from where they had availed of loan facilities. Mis-appropriation of money is the accusation. The complainant has even furnished details of 14 other FIRs lodged against the present petitioners by different complainants and on the same allegations.

5. This Court has been informed that on a previous occasion, the petitioners had entered into a compromise agreement with the flat owner society in Royal Apartments/Royal Empire and as per which, they were to re-start the construction as per project and deliver possession within a stipulated time frame and on the strength of such compromise agreement, the petitioners had succeeded in securing the benefit of bail in previous proceedings, but in spite thereof, the petitioners have not adhered and have not honoured their commitment.

6. In a nut-shell, allegations against the present petitioners are of having duped a large number of flat buyers/investors of their hard earned money. The instances of builders enticing innocent people and thereby depriving the purchasers of their life time savings and then giving the slip are on the rise. These are matters which would require a thorough and deep probe.

7. The matter is stated to be still at the investigating stage.

8. Even though the petitioners are stated to be in custody since 13.2.2016 and 5.3.2016 respectively, yet this Court is of the view that keeping in view the serious allegations and to ensure an impartial, free and fair investigation, prayer made by the

petitioners seeking benefit of regular bail is declined at this stage.

9. Petition dismissed.

April 07, 2016

SRM

**(TEJINDER SINGH DHINDSA)
JUDGE**