

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

CRM-M-12587-2016 (O&M)
Date of decision: May 12, 2016

Hemraj Garg and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Aman Bansal, Advocate for the petitioners.
Ms. Rajni Gupta, Addl. Advocate General, Punjab.
Mr. J.S. Toor, Advocate for the complainant.

Rajan Gupta, J.(oral)

This is a petition under Section 438 Cr.P.C. seeking pre-arrest bail in a case registered against the petitioners under Sections 420/120-B IPC at Police Station Zirakpur, District Mohali, vide FIR No.216 dated 27.06.2014.

Learned senior counsel for the petitioners has submitted that petitioners have nothing to do with the alleged offence. They have been implicated falsely in the present case. He submits that petitioners had licence to develop a residential colony over the land in question. The dispute is civil in nature. In fact, one Parneet Kaur committed fraud and cheating with the promoter firm as she gave affidavit and letter of consent dated 25.8.2010 in favour of M/s Sai Apartments and Infrastructure. The police instead of taking action against her, is harassing the partners of the firm. He also submitted that similarly situated co-accused namely,

Surinder Bansal, Rajinder Gulati and Krishan Gopal have been found innocent during investigation.

Prayer has been opposed by learned State counsel as well as counsel for the complainant on the ground that allegations against the petitioners are serious. They do not deserve the concession of pre-arrest bail as their custodial interrogation is necessary. They further submit that accused persons sold the land belonging to Parneet Kaur complainant and M/s Sai Apartment and Infrastructures has no concern with the same. According to State counsel, petitioners are evading their arrest. Proclamation against them has been issued by the trial court.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

FIR was lodged on the complaint made by S.S. Dhanda etc. claiming himself to be the President of Vishranti City, Zirakpur to the effect that partners of M/s Sai Apartments and Infrastructure had sold plots in Vishranti City, on which number of persons had constructed houses and obtained electricity connections. On April 18, 2014, Parneet Kaur entered the colony and informed that plots have been wrongly sold to the complainant and other persons. She raised a fence on June 07, 2014 around the property. Persons living in the houses had even got electricity connections. Complainants made efforts to contact the Directors of the company but to no avail. Petitioners alongwith Vinod Goyal, Sushil Bindal and Sanjeev Bindal are partners of M/s Sai Apartments and Infrastructure. They sold several plots to various persons despite the knowledge that they were not owners thereof. Allegation is

that area reserved for laying down roads/streets was sold to complainant(s). Partners of the firm M/s Sai Apartments had no legal right to enter into any such transactions and to sell the plots. Anticipatory Bail Petitions filed by co-accused Sushil Jindal and Vishal Goyal have already been dismissed vide orders passed by coordinate benches in CRM-M-42268 of 2014 and CRM-M-40825 of 2014 respectively. Petitioner No.2 himself preferred a petition i.e. CRM-M-38906 of 2014 before this court. However, he withdrew the same and it was dismissed on May 04, 2015. In my considered view, petitioners are not entitled to concession of pre-arrest bail in view of serious allegations levelled against them. The petition is without any merit and is hereby dismissed.

It may be mentioned here that pursuant to order dated 6.5.2016, G.S. Grewal, Superintendent of Police, who is heading the SIT, is present in court. According to him, custodial interrogation of the petitioners is required. A query has been put to him why no effort has been made by the SIT to arrest the petitioners despite the fact that they have no protective order in their favour for last one year. No clear answer is forthcoming. Under the circumstances, it is directed that further investigation be conducted by the SIT under direct supervision of an IPS officer not below the rank of Inspector General of Police.

(RAJAN GUPTA)
JUDGE

May 12, 2016
'Rajpal'