

**CRM-M-1743-2016
CRM-M-5441-2016 AND
CRM-M-2717-2016**

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Anuradha
2016.10.27 17:45
I attest to the accuracy and
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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
101+202 (03 cases)
Decided on 25.10.2016**

CRM-M-1743-2016

Brij Lal Mittal	Versus	...Petitioner
State of Punjab and others		...Respondent

CRM-M-5441-2016

Sanduri Lal Mittal	Versus	...Petitioner
State of Punjab		Respondent

CRM-M-2717-2016

Ram Bhaj Mittal	Versus	...Petitioner
State of Punjab		...Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. APS Deol, Sr. Advocate with
Mr. Daldeep Singh, Advocate
for the petitioner(s).

Mr. K.S.Pannu, DAG, Punjab.

Mr. Mohit Jaggi, Advocate
for the applicant-respondent No.2 to 8.

Mr. Sandeep Suri, Advocate
for respondents No.9, 11, 12-DMFL/HDFC.

Mr. Deepak Jain, Advocate
for respondent No.10-Axis Bank.

Mr. AK Ahuja, Advocate
for respondent No.13-OBC.

AJAY TEWARI, J. (Oral)

CRM-13939-2016
CRM-13694-2016 and
CRM-7852-2016

These applications have been filed for impleading the applicants-
respondent Nos. 2 to 8 as parties.

For the reasons recorded in the application, the application is
allowed and the persons mentioned in the paragraph No.3 of the
applications are impleaded as respondents Nos. 2 to 8 in the respective
petitions.

Main cases

Two petitions bearing Nos. CRM-M-5441-2016 and CRM-M-
1743-2016 have been filed for anticipatory bail and one petition bearing No.
CRM-M-2717-2016 has been filed for regular bail in case FIR No.217 dated
23.09.2015 under Section 420, 465, 467, 468, 471, 474, 120-B IPC
registered at P.S. Zirakpur, District S.A.S. Nagar, Mohali.

As regards the petition for regular bail, the petitioner was granted
interim bail after having undergone 07 months of custody and on

05.05.2016 in CRM-M-2717-2016, the following order was passed:

“CRM No.13795 of 2016

The aforementioned miscellaneous application has been filed seeking preponement of the date of hearing in the main petition listed for 30.05.2016 regarding grant of bail.

Prayer for preponement is based on negotiations going on between the contesting parties.

Notice of the application to the respondents.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab accepts notice on behalf of the State and Mr. Parduman Yadav and Mr. Mohit Jaggi, Advocates accepts notice on behalf of the complainant.

Learned Counsel for the parties have arrived at a consensus for preponement of date of hearing from 30.05.2016 and to be taken up today itself.

In view of the aforesaid, the miscellaneous application is allowed and hearing of the main petition is preponed from 30.05.2016 and ordered to be taken up today itself.

CRM-M No.2717 of 2016

Prayer is for grant of regular bail to the petitioner Ram Bhaj Mittal in case FIR No.217 dated 23.09.2015 for offences punishable under Sections 420, 465, 467, 468, 471, 474 and 120-B of Indian Penal

*Code registered with Police Station Zirakpur, District
SAS Nagar, Mohali.*

*Learned Counsel for the petitioner submits
that his client is in custody since 3.10.2015 and
investigations qua him are over, challan presented and
charges have been framed. That apart it is contended
that the parties are in the process of negotiating
amicable settlement and the
connected matters are listed for 28.07.2016.*

List on 01.06.2016 for further consideration.

*In the meanwhile, it is ordered that the
petitioner shall be released on interim bail subject to
the to the satisfaction of learned CJM/Duty Magistrate,
SAS Nagar, Mohali.”*

The allegations were manifold. The first allegation was that the petitioner had floated property Surya Infrastructure and Builders in which they had sold the flats to various persons. There were allegations that some purchasers has paid entire money and had later on they came to know that the flat for which they had paid was sold to somebody else and there were also the allegations that the same property was mortgaged to different banks. On numerous occasions, the matter was adjourned to enable the petitioners to settle this dispute in this connection.

As regards the anticipatory bail, on 09.02.2016 in CRM-M-1743-

2016, the following order was passed:

“Learned Counsel for the petitioner submits that out of Rs.5 crores loan taken in the account of Surya Infrastructures and Builders, petitioner has paid a sum of Rs.4,28,75,000/-. Regarding the remaining outstanding amount , there are six mortgaged shops of the developer qua which auction proceedings are soon to commence.

At this stage, learned Counsel for the complainant submits that the petitioners have sold 54 flats twice over thereby causing prejudice to their interest.

In response, learned Counsel for the petitioner submits that the petitioner would join investigation and clarify the whole situation.

Learned State Counsel is also directed to file reply.

List on 28.04.2016.

Petitioner shall appear before the IO on 15.02.2016 and also as and when called.

Till the next date of hearing, in the event of her arrest, petitioner shall be released on interim bail subject to the satisfaction of the arresting/investigating officer. However, she shall join the investigation as and when called upon to do so and abide by the conditions as

envisaged under Section 438(2) Cr.PC. ”

On 15.02.2016, in CRM-M-5441-2016, the following order was passed:

“Prayer is for grant of pre-arrest bail in case FIR No.217 dated 23.9.2015 under Sections 420,465,467,468,471,474,120-B IPC,PS Zirakpur, Distt.SAS Nagar,Mohali.

Petitioner is one of the partners in M/s Surya Infrastructure and Builders. It is submitted that in a similar prayer co-accused partner Brij Lal Mittal has since been granted interim pre-arrest bail, however, the same is, in sum and substance subject to protecting interests of the allottees.

Notice of motion for 28.4.2016.

To be heard with CRM-M 1743/2016.

Interim directions in the same terms.

It is made clear that if any of the allottees suffers on account of action of the petitioner or of the co-accused their anticipatory bail applications would be liable to be dismissed. ”

On 06.10.2016 in CRM-M-1743-2016, the following order was passed:

“Respondent No.13 has filed an affidavit. Copy supplied.

Counsel for the newly added respondents state that the efforts made by the petitioners previous to their impleadment do not address the whole issue and if the petitioners are seeking anticipatory bail on the ground that they are settling the dispute, the same cannot be done without taking the newly added respondents on board. They have also pointed out that there may be other bankers who have financed the other home purchasers. In nutshell, counsel for the newly added respondents have expressed grave skepticism over the claims and attempts of the petitioners to settle this dispute because there are allegations that certain flats have been sold more than once.

This assertion is denied by learned counsel for the petitioners who states that these may be cases of resale but are not the cases of multiple sales. He has further stated that the petitioners would again attempt to arrive at some settlement.

Counsel for the complainants point out that on 28.7.2016, the petitioners had sought last opportunity and after that date they have not paid even a single penny.

In the totality of the circumstances, I do not deem it appropriate to deny the prayer for last opportunity with the clear understanding that in the

event of non settlement, the case shall be decided on merits.

Adjourned to 25.10.2016. Photocopy of this order be placed on the connected matters.”

Learned Senior Counsel has not been able to dispute that no settlement has been done but states that with one of the bankers i.e. Oriental Bank of Commerce settlement talks are going on.

In my opinion, the stand which is taken today has been taken earlier and it is a case where the petitioners have been getting the interim order extended by making statements and giving undertakings which are not being fulfilled. In view of the entire conspectus, I see no reason to take a different view to that taken by the Courts below.

Petitions stand dismissed.

Since the main cases have been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

October 25, 2016
Anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No