

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc. No.M-19037 of 2016(O&M)

Date of Decision: May 28, 2016

Jaswant Singh son of Shri Chanan Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr.Arun Singla, Advocate for the petitioner.



TEJINDER SINGH DHINDSA, J.

Petitioner seeks concession of pre-arrest bail in case FIR No.72 dated 16.3.2016, registered under Sections 420, 406, 506, 120-B of the Indian Penal Code at Police Station Ambala City.

2. Briefly noticed, FIR came to be registered on the complaint of Subhash Chander Batra. Complainant asserted that he had entered into an agreement to sell dated 20.10.2015 with Jagtar Singh, co-accused as regards land measuring 82 Kanals 3 Marlas @ ₹53,11,000/- per acre. Earnest money of ₹30 lacs was stated to have been paid on two different dates i.e.10.10.2015 and 2.11.2015 and for which receipts were duly issued. The last date for registration of the sale-deed was stipulated as 18.5.2016.

3. Accusations raised by the complainant are with regard to cheating, fraud, breach of trust and embezzlement of funds. Such allegations are founded on the basis that Jagtar Singh had already entered

into an agreement to sell pertaining to the same very land earlier in point of time with one Gurdhyan Singh and such fact having not been disclosed.

4. Learned counsel for the petitioner would argue that the agreement to sell was entered into by the complainant with Jagtar Singh and role of the present petitioner is only that of an attesting marginal witness. It is further argued that the earnest money had also been received by Jagtar Singh and there was no entrustment of money to the present petitioner.

5. Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the present petition warrants dismissal.

6. During the course of hearing, certain material aspects which have gone uncontroverted are that agreement to sell dated 20.10.2015 had been entered into and ₹30 lacs were received as advance by Jagtar Singh. Learned counsel has not been able to rebut that an agreement to sell had also been entered into by Jagtar Singh with Gurdhyan Singh earlier in point of time and which pertained to a certain portion of land which forms part of the agreement entered into with the complainant herein. It also stands conceded that Gurdhyan Singh had instituted a suit for specific performance and the competent Court had issued an order of status quo which was still in operation on the relevant date i.e. 20.10.2015 i.e. the date when agreement to sell had been entered into by the complainant with Jagtar Singh. It also stands conceded that the agreement dated 20.10.2015 did not contain a recital with regard to such factual position and neither such fact was brought to the notice of the complainant.

7. The contention raised by the petitioner with regard to confining the role of the present petitioner to be a mere marginal attesting witness to

the agreement to sell dated 20.10.2015 between complainant and Jagtar Singh, prima facie, cannot be accepted at this stage.

8. It is the categoric assertion of the complainant that he had been introduced to Jagtar Singh by the present petitioner. In other words, the transaction and entering into the agreement to sell dated 20.10.2015 was facilitated by the petitioner herein.

9. It is also the accusation raised by the complainant that the present petitioner had held out assurances that the land in question is free from all sort of encumbrances and that he knew Jagtar Singh i.e. the owner since long and just to entice the complainant, the present petitioner had even issued a cheque towards security so as to ensure that the agreement to sell is entered into.

10. Learned counsel for the petitioner concedes that a cheque had indeed been issued by the petitioner and to the complainant. However, no plausible explanation/justification has come forth from learned counsel as regards a marginal attesting witness to show such interest in the bargain/transaction.

11. Prima facie, this Court finds that there was a clear intent to cheat on the part of Jagtar Singh at the stage of receiving earnest money of ₹30 lacs from the complainant while entering into agreement to sell dated 20.10.2015. That apart, inspite of a status qua order having been granted in respect of a certain parcel of land, Jagtar Singh had proceeded further in the matter and attempted to alienate the same. Allegations indicate the role of the present petitioner to be something over and above that of a marginal witness. The same would require a deep and thorough probe.

12. In the circumstances of the case, custodial interrogation of the

petitioner may well be warranted. Prayer made by the petitioner seeking concession of anticipatory bail is declined.

13. Petition dismissed.

May 28, 2016

SRM

**(TEJINDER SINGH DHINDSA)
JUDGE**

Note: Whether referred to Reporter? (Yes/No)