

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-21374 of 2015

Date of Decision: February 27, 2016

Sanjeev Kumar Bhatia and anr.

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. Vishal Sharma, Advocate
for the petitioners.

Ms. H.K. Athwal, DAG, Punjab.

Mr. G.S. Verma, Advocate for the complainant.

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M.M.S. BEDI, J.

Petitioners Sanjeev Kumar Bhatia and Krishan Kumar Bhatia have filed the present petition for pre-arrest bail in FIR No. 5 dated February 4, 2014 under Sections 420, 120-B IPC registered at Police Station Moti Nagar, Ludhiana in a case registered at the instance of Jaspinder Singh alleging that Ramesh Kumar Verma who deals in property business and is known to Bhopal Singh approached the complainant for sale of his land measuring 25 kanals 11 marlas at Moti Nagar, Ludhiana and Bhopal Singh

produced revenue record of the said land claiming that he has struck a deal of the land with Krishan Kumar Bhatia at the rate of Rs.4000/- per sq. yards and would enter into agreement of sale of said land with Deepak Kumar. It was told that price of the land was likely to be increased in future. On March 10, 2010, an agreement of sale was executed by Bhopal Singh with Krishan Kumar Bhatia agreeing to sell the land to Deepak Kumar and Deepak Kumar and Bhopal Singh executed an agreement of sale in favour of complainant. Both the agreements of sale were written on the same day, at the same time at Transport Nagar, Tehsil East, District Ludhiana. Krishan Kumar Bhatia struck a deal regarding the land at the rate of Rs.4000/- per sq. yards with Deepak Kumar and Deepak Kumar struck the deal with complainant for sale of the land at the rate of Rs.4500/- per sq. yards. A sum of Rs.60 lacs was allegedly paid to Krishan Kumar Bhatia by going to his house in cash. A cheque of Rs.9 lacs was also issued in the name of Krishan Kumar Bhatia. The cash amount and cheque had been handed over to Krishan Kumar Bhatia, Bhopal Singh and Deepak Kumar. The allegation of the complainant is that when measurement of the land was undertaken, it transpired that the property belonged to some other person and the land which was sold by Krishan Kumar Bhatia fell under the streets. The complainant contacted Krishan Kumar Bhatia, Deepak Kumar, Bhopal Singh and property dealer Darshan Singh Bawa but they avoided the complainant. The allegation against Krishan Kumar Bhatia and Bhopal Singh is that they have illegally used the power of attorney of already dead

people before the execution of the agreement of sale. In nutshell, the allegation against the petitioners is that they had connived with Bhopal Singh, Deepak Kumar and Darshan Singh Bawa, property dealer and cheated the complainant.

An interim direction was issued to the petitioners to join investigation. It has been reported that the petitioners have joined investigation.

Learned counsel for the petitioners Mr. Vishal Sharma has vehemently contended that the petitioners have been falsely impleaded in the case by the complainant by concealing the fact that Deepak Kumar, Vinod Kumar, Ramesh Kumar Verma, Kuldeep Singh, Bhopal Singh etc. have got an intention to grab the valuable land of the true owners by forging and fabricating the agreement of sale dated March 10, 2010 and another agreement of sale dated March 7, 2011 with regard to the land measuring 25 kanals 11 marlas situated in Village Jamalpur Awana, Tehsil and District Ludhiana. It was claimed that on the basis of forged and fabricated agreement of sale dated May 15, 2011 in favour of Vinod Kumar regarding 25 kanals 11 marlas of land, Deepak Kumar and others tried to grab the land. Petitioners claimed that they have filed a private complaint against Deepak Kumar and others for having fabricated the agreement of sale dated March 10, 2010, March 7, 2011 and May 15, 2011 in the year 2012.

The details of the result of the criminal complainant has not been filed but with the assistance of counsel for the petitioners and the

complainant I have carefully gone through the entire police file, seen the documents and the statements of the witnesses and the casual report prepared by the investigating agency regarding the culpability of the petitioners. The entire record does not indicate the transfer of actual sum of Rs.60 lacs to the petitioners. It will be debatable issue during the course of trial whether the agreement of sale relied upon by the complainant was actually executed for consideration. The occurrence is of the year 2010. On the basis of the occurrence of March 2010, the FIR was registered on February 4, 2014 by holding an inquiry without there being any cogent evidence regarding receipt of amount by the petitioners. The petitioners or the complainant seem to have not taken any steps during the last six years for enforcement of their legal right accruing from the agreements of sale. At the most, the liability, if any, will be a combination of civil and criminal nature. No steps having been taken by the complainant till date to seek the refund of the money or to establish the payment of money to the petitioners; petitioners having joined investigation, it does not appear to be a case of custodial interrogation as the prosecution has to establish the case on the basis of the documents which have already been produced before the police.

In view of the above, the petition is allowed and it is ordered that in case of arrest of the petitioners they will be released on bail to the satisfaction of the arresting officer subject to the conditions that they will join investigation as and when required by the police and that they will not tamper with the evidence or hamper the investigation in any manner.

Nothing said in this order will prejudice the other legal rights of the parties, in accordance with law.

Police file returned.

February 27, 2016
sanjay

(M.M.S.BEDI)
JUDGE