

CRM-M No.23849 of 2015

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**203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.R.M-M No.23849 of 2015
Date of Decision : 23.07.2016**

Lalit Jhamb and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Pardeep Solath, Advocate for the petitioners.

Mr. Kuldeep Tiwari, Additional A.G., Haryana.

Mr. S.S.Behl, Advocate for the complainant.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is a petition for grant of pre-arrest bail to the petitioners under Section 438 Cr.P.C. in case FIR No.199 dated 26.06.2015 registered under Sections 406/420/383/506/120-B IPC at Police Station

Ambala Cantt. District Ambala.

This petition for anticipatory bail has been hanging fire for the last one year. On 23.07.2015 exactly an year ago the following order was passed :-

“Learned counsel for the petitioners on instructions from one Rohtash Chaudhary, who is a relation of the petitioners, states that the petitioners are willing to deposit a sum of Rs.50 lakh without prejudice to their rights in the controversy between the parties.

Notice of motion for 22.9.2015.

Let the needful be done and the amount of Rs.50 lakh be deposited before the Registrar of this Court in the name of the complainant. The Registrar shall retain this amount in a fixed deposit till further orders. If the said amount is deposited in terms of this order within one month from today, the arrest of the petitioners shall remain stayed subject to the following conditions :-

i) They will make themselves available for investigation as and when required to do so.

ii) They will not leave the country without the prior permission of the Court.

iii) They will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police official.

It has been made clear to the learned counsel for the petitioners that in the eventuality of the petitioners not adhering to the statement made before this Court, they shall be liable for all consequences arising out of the mis-statement made before this Court which shall be construed to be an obstruction in the course of justice.”

Learned counsel for the complainant points out that the petitioners had challenged the order of this Court in the Supreme Court vide SLP No.6663 of 2015 but had failed to get any relief. Thereafter the petitioner No.1 had suffered statement on 01.09.2015.

On 01.09.2015 the following order was passed :-

“The applicant-petitioner Lalit Jhamb is present in Court. He has submitted an undertaking under his hand that he will pay the amount as indicated in the order dated 23.7.2015 with the Registry of this Court on or before 22.9.2015. The said undertaking is taken on record.

List on 22.9.2015, the date already fixed.”

On 29.09.2015, the following order was passed :-

“Learned counsel for the petitioners states that now it has been agreed between the parties that the petitioners will execute sale deed of the property in dispute with 18% cut off in favour of the complainant within 10 days on payment of remaining amount of Rs.15.00 lacs and will hand over to him the property in dispute.

Learned counsel for the complainant states that he would have no objection but instead of granting final anticipatory bail the matter should be adjourned to await this transaction.

Adjourned to 19.10.2015.

Interim order to continue.”

On 22.01.2016, the following order was passed :-

“Counsel for the complainant states that after the order of 29.9.2015, he has ascertained that actually the petitioners will not be in a position to convey valid title and on the other hand he had already paid the full amount and, therefore, he is not in a position to pay the further amount of ₹ 15 lacs.

Counsel for the petitioners, however, states that the complainant is cooking up this false allegation that the petitioners would not be able to convey valid title only to avoid making payment of ₹ 15 lacs which was specifically agreed between the parties. As per him, the petitioners duly appeared before the Tehsildar.

Since both the parties are disputing the settlement, I deem it appropriate to recall the order dated 29.9.2015. Ordered accordingly. Let the matter be now listed as per roster, after obtaining orders from Hon'ble the Acting Chief Justice. Interim order to continue till the matter is listed before the Bench.”

On 15.02.2016, the following order was passed :-

“Learned counsel for the complainant seeks an adjournment to place on record material/documents to demonstrate that the petitioners were never competent to transfer title of the land in question pertaining to the agreement to sell entered into between the parties for which an earnest money of Rs.50 Lac had been received. It is the contention raised by learned counsel for the complainant that it would not be a civil dispute as the intent to cheat was there from the very outset.

List on 16.03.2016.

Documents be placed on record within a period of two weeks from today.

Interim protection to continue till the next date of hearing.”

Today again I have heard the matter at sufficient length.

The contention of learned counsel for the petitioners is that the petitioners are property agent and what has happened in this case is that people who had contracted to buy property in the year 2011-2012 are now resiling from purchasing the same because of steep fall in prices. As regards the present complainant, he has argued that the present complainant had agreed before this Court that he would pay Rs.15.00 lacs more and then he went back from this undertaking.

Learned counsel for the complainant and the learned Additional Advocate General, on instructions from ASI Ashok Kumar on the other hand have argued that as mentioned on 15.02.2016 the complainant had resiled because the petitioners actually did not have valid title. The complainant had also filed CRM-8719 of 2016 alongwith which he had given details of similar Special Powers of Attorney executed by the petitioners with respect to the same chunk of land in favour of other persons and as per documents A3, A4, A5 and A6 annexed therewith the petitioners had contracted to transfer 138 kanals of land whereas they admittedly had title only for 134 kanals and 9 marlas.

The petitioners have not filed any reply to controvert the assertions made in this said application which was filed as far back as on 09.03.2015. Learned Additional Advocate General has also informed the court that during the pendency of the present petition four similar cases have been filed against the petitioners by other persons with similar allegations and the petitioners are absconding.

In this view of the matter, I do not deem it a fit case where the benefit of interim bail should be extended.

Consequently, the petition is dismissed and interim order dated 23.07.2015 is vacated.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

23.07.2016
pooja sharma-I

(AJAY TEWARI)
JUDGE