

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25114 of 2016
DECIDED ON: August 12, 2016

JINDA HASSAN

....PETITIONER..

VERSUS

STATE OF HARYANA

....RESPONDENT..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Divya Jerath, Advocate for
Mr. Kamal Mor, Advocate,
for the petitioner.

Ms. Neelam Kashyap, DAG, Haryana.

JASPAL SINGH, J.

By virtue of instant petition preferred under Section 438 of the Code of Criminal Procedure, the petitioner has sought pre-arrest bail, feeling apprehension of his arrest in case FIR No. 271, dated 07.07.2016, under Sections 406, 420, 467, 468, 471 and 120-B IPC, Police Station Ganaur, District Sonipat.

2. The contention of learned counsel for the petitioner is that the petitioner has been roped-in in the instant case by levelling false allegations. Otherwise, he has nothing to do with the agreement of sale in question. He is neither a beneficiary nor an attesting witness of the same. The main accused, who is alleged to have impersonated as the owner of the property has already been arrested by the police and is behind the bars. Since, the petitioner has no concern with the alleged sale transaction, his custodial interrogation is not at all required. He is ready to join the investigation as and when required by the

police. Moreover, the case of the prosecution hinges solely on the documentary evidence i.e. the agreement of sale.

3. On the other hand, learned State counsel has refuted the various submissions made by learned counsel for the petitioner and has submitted that it is the petitioner, who brought forward Santosh wife of Sudan Singh to impersonate Krishna Devi wife of Sewa Ram, the real owner of the property in question subject matter of the agreement of sale. Moreover, the petitioner has been in possession of the property in suit and also shared the amount received by his co-accused Santosh, which is still to be recovered.

4. This Court has given a deep thought to the rival submissions made by learned counsel for the parties and has perused the record. There are specific allegations against the petitioner that he promised the complainant to hand over the possession of the land subject matter of the sale by way of an affidavit. Even, he as well as Santosh are alleged to have received a sum of ₹20 lacs from the complainant as earnest money. False representations were made by the petitioner as well as his co-accused to the complainant that his co-accused Santosh is the real owner of the property and he brought his co-accused Santosh to represent as Krishna Devi, the real owner and hence, induced the complainant to part with substantial amount to the tune of ₹20 lacs. Thus, it can be said that *prima facie*, the intention of the petitioner right from the inception was to cheat and defraud the complainant.

5. It is well settled that the grant of pre-arrest bail under Section 438 Cr.P.C. is discretionary, which is required to be exercised in exceptional cases, that too, where the allegations contained in the FIR/or complaint appear to be *prima facie* false or ground-less but in the case in hand, there are serious and

specific allegations against the petitioner. Moreover, the custodial interrogation of the petitioner is required to unearth all the ramifications involved in this case.

6. Thus, this Court does not deem it a fit case to grant the concession of pre-arrest bail. Hence, the petition stands dismissed.

August 12, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No