

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 27618 of 2015
Date of decision: 1.3.2016

Jaspreet Singh and anr

Petitioners

vs.

State of Punjab

Respondent

Present: Mr. Anil Kumar Garg, Advocate.
Ms. HK Athwal, DAG, Punjab
Mr. Piyush Jain, Advocate.

M.M.S.BEDI,J.

The petitioners are real brothers. They seek the concession of pre-arrest bail in a case registered at the instance of Santosh Kumar alleging that the petitioners in connivance with each other and one impersonator, duped the complainant of a sum of Rs. 20 lacs by persuading him to enter into a transaction of sale regarding land measuring 2 acres, belonging to one Amarjit Singh. Some impersonator approached the complainant and entered into an agreement of sale posing as Amarjit Singh and received a sum of Rs.20 lacs.

The grievance of the complainant is that the said impersonator had been brought by the petitioners and money was also received by the petitioners.

Counsel for the petitioners has contended that as a matter of fact complainant Santosh Kumar had entered into an agreement of sale with one Sukhwinder Singh on 30.4.2013 and the petitioners were witnesses to the said agreement of sale. The agreement of sale could not be finally implemented and the complainant had pressurised the petitioners to make a statement but on account of petitioners having not agreed to the

same, they have been falsely implicated in the case.

Counsel for the petitioners submits that the petitioners had moved a representation to the Commissioner of Police on account of threats given by the complainant. When no action was taken, the petitioners filed a petition before this court for a direction, which was decided on 9.2.2015 with a direction that the representation should be considered. Counsel has further argued that FIR is a counter blast as the complainant wanted to settle the dispute with said Sukhwinder Singh and that on the basis of fake agreement of sale dated 25.5.2013, which has got nothing to do with the petitioners, the petitioners have been falsely involved.

With the assistance of learned State counsel, I have gone through the police file, which indicates that during the course of investigation, the investigating officer has recorded the statement of Malkiat Singh, brother of Amarjit Singh, the real owner, to the effect that he had not entered into an agreement of sale. Statements of Balwinder Singh and Jugraj Singh, who are alleged to be the attesting witnesses of fake agreement of sale dated 25.5.2013 have been recorded. The petitioners are neither the signatories of the forged agreement of sale dated 25.5.2013 nor any document indicating that they had received money on behalf of Amarjit Singh or his impersonator has come in the hands of the investigating agency. The testimony of Balwinder Singh and Jugraj Singh indicating the transfer of money would certainly be a debatable issue as the transfer of huge money in lacs from one hand to another, can be established only by documentary evidence. The investigation regarding the source of money with the complainant, which was handed over to the alleged impersonator, is also still under investigation. It is also not out of place to observe here that till date the complainant has not taken any steps

to recover the amount, which had fraudulently been taken from him by the accused persons or the petitioners. The liability, if any, would be a combination of civil and criminal liability but custodial interrogation does not appear to be necessary for the recovery of any money, which appears to be prima facie debatable at this stage.

Accordingly, 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 condition that they will join the investigation as and when required by the police and will not tamper with evidence or hamper the investigation.

March 1, 2016
TSM

(M.M.S.BEDI)
JUDGE