

Sr. No.116

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No.M-32419 of 2015 (O&M)

Date of Decision: 02.06.2016

Ashu Arora

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. R.S.Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate,
for the petitioner.

Mr. D.S.Virk, AAG., Punjab.

Ms. Upasana Dhawan, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.92 dated 04.06.2014, under Sections 419, 420, 120-B, 406, 465, 467, 468, 471, 506 of Indian Penal Code, registered at Police Station Navi Baradari, District Jalandhar.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Ashok Kumar Dhull. Complainant asserted that he was previously known to B.R.Arora and having taken advantage of their alliance, B.R.Arora in connivance with his wife Ashu Arora i.e. present petitioner enticed him into a deal as regards purchase of plot ad measuring 1765 Sq. Feet. It was stated that the accused party met the complainant and portrayed that such plot was in the ownership

of one Jasbir Singh and accordingly agreement to sell was entered into and a sum of Rs.5 lacs earnest money was entrusted to B.R.Arora.

As per allegations, B.R.Arora thereafter on two different occasions took additional sums of Rs.5 lac and Rs.9,80,000/- to facilitate purchase of a constructed Kothi in the name of the complainant.

Allegations in a nutshell are that a total sum of Rs.19,80,000/- has been misappropriated as neither the sale deed has been executed in pursuance to the agreement to sell entered into with one Jasbir Singh nor has the deal and promise as regards purchase of a constructed Kothi fructified.

Further allegations are that upon having been pressurized to return the money, B.R.Arora has issued different cheques from his account and upon presentation of one cheque for an amount of Rs.5 lac, the same was dishonoured on account of insufficient funds.

Complainant has further more alleged that having verified from the revenue record he became aware that the plot ad measuring 1765 Sq. Feet for which he was made to enter into an agreement to sell with Jasbir Singh, actually belongs to the present petitioner, namely, Ashu Arora.

Petitioner in the present case was arrested on 12.08.2015.

Investigation having been completed, challan qua the present petitioner was presented on 12.10.2015. Even charges have till date not been framed.

It may be noted that husband of the petitioner, namely, B.R.Arora having evaded the process of law was declared a proclaimed offender and thereafter has been arrested on 12.12.2015.

Prayer made in the present petition has been vehemently

opposed by State counsel as also counsel appearing for the complainant by contending that with regard to the plot in question, the petitioner had already availed of a loan from State Bank of India. That apart, she had also entered into an agreement to sell for such plot with one Naresh Kumar and on the strength of such agreement even civil proceedings have been initiated and which are pending as of date.

Be that as it may, as per version of the complainant, it was B.R.Arora i.e. husband of the petitioner who had enticed the complainant to part with the sum of Rs.19,80,000/- by taking advantage of his proximity.

The entrusment of funds is stated to be in favour of B.R.Arora even though in the presence of the present petitioner.

Even the cheques that were stated to have been issued to the complainant towards return of money were from the account of B.R.Arora.

During the course of arguments, it has also gone uncontroverted that in the agreement to sell entered into between Ashok Kumar Dhull complainant and Jasbir Singh, it is B.R.Arora who has appended his signatures in the capacity of marginal attesting witness.

Such agreement does not carry the signatures of the present petitioner.

The issue as regards the present petitioner having acted in connivance with the other co-accused in the present matter would be a moot question to be considered during the course of trial.

Without making any observations on merits and keeping in view the length of incarceration already suffered by the petitioner and who happens to be a lady, prayer is accepted.

Petitioner be enlarged on bail subject to satisfaction of the

Chief Judicial Magistrate/Duty Magistrate, Jalandhar.

It is, clarified that observations contained in this order are confined as regards considering the prayer of the petitioner for grant of bail and would have no bearing on the merits of the case.

Disposed of.

02.06.2016

vandana

(TEJINDER SINGH DHINDSA)
JUDGE