

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-32526 of 2015

Date of Decision: April 23, 2016

Surender Yadav

.....Petitioner

Vs.

State of Haryana

.....Respondent

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

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Present:- Mr. Bipan Ghai, Sr. Advocate with
Mr. Aditya Jain, Advocate
for the petitioner.

Mr. C.S. Bakshi, Addl.A.G., Haryana.

Mr. Anand Chhibbar, Sr. Advocate with
Mr. Vaibhav Sahni, Advocate
for the complainant.

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M.M.S. BEDI, J.

This order will dispose of a petition for grant of pre-arrest bail filed by petitioner Surender Yadav in case FIR No. 895 dated December 13, 2014 under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station Palam Vihar, District Gurgaon. The said FIR was registered at the instance of Steven Kumar Sansoa alleging that the petitioner had purchased a piece of land measuring 2 kanals 13 marls from the complainant vide sale

deed dated March 26, 2013 for a total sale consideration of Rs.90 lacs. The allegation against the petitioner is that he had made payment of Rs.10 lacs and two cheques of Rs.40 lacs each paid for sale consideration were dishonoured.

The claim of the petitioner is that sum of Rs.10 lacs had been paid as earnest money at the time of agreement of sale whereas remaining balance of sale consideration was given to the complainant in cash at the time of execution of registration of the sale deed in the office of Sub Registrar, Gurgaon on March 26, 2013. Reliance has been placed on the contents of the registered sale deed wherein it has been mentioned that sum of Rs.80 lacs had been paid in cash to the complainant.

Mr. Chhibbar, learned senior counsel for the complainant has put in appearance to oppose the petition for pre-arrest bail contending that the balance payment of Rs.80 lacs was to be paid by the petitioner to the complainant in cash but in lieu of cash payment, the petitioner had issued two cheques in presence of Sanjeev Chhibbar, property dealer for a sum of Rs.40 lacs each in favour of the complainant drawn on Laxmi Vilas Bank, Faridabad branch with a promise that these cheques will be encashed. The copies of two cheques dated March 29, 2013 have been placed on record. The complainant claims that the said two cheques have been dishonoured by Punjab National Bank, Nawanshehar on the ground that drawer signatures differ. At the instance of petitioner the said cheques were again deposited on April 22, 2013 for encashment but these were dishonoured again. He

also claimed that no possession has been given to the petitioner. Mr. Chhibbar has contended that the complainant had written a letter to Tehsildar Gurgaon regarding cancellation of the sale deed on April 23, 2013 and for taking necessary action against the petitioner as he had hatched a conspiracy with attesting witness of the sale deed by issuing cheques which were dishonoured on presentation.

With the assistance of learned counsel for the petitioner, State counsel and counsel for the complainant, I have gone through the entire police file. It transpires that the cheques relied upon by the complainant had been signed by Wazir Singh for Spring Events and Advertisers. The sole controversy which is relevant for determination of culpability of the petitioner is whether sum of Rs.80 lacs in the shape of two cheques in the name of the complainant issued on behalf of the third party could be said to have been issued in lieu of the sale consideration by the petitioner to the complainant and whether the contents in the registered sale deed executed before the Sub Registrar regarding receipt of sum of Rs.80 lacs in cash by the complainant would be a debatable issue which is to be investigated. The liability of the petitioner is a combination of civil as well as criminal nature. The custodial interrogation of the petitioner does not appear to be appropriate for investigating the authenticity of two cheques or to consider whether the said two cheques can be seen to confer liability to pay a sum of Rs.80 lacs to the complainant by the petitioner. In case the registered sale

document is invalid for want of consideration is apparently a civil dispute not requiring the petitioner to be sent behind bars.

In view of the above, the petition is allowed and it is ordered that in case of arrest of the petitioner he will be released on bail to the satisfaction of the arresting officer subject to the conditions that the petitioner will join investigation as and when required by the police and that he will not tamper with the evidence or hamper the investigation in any manner. Nothing said in this order will effect the rights of the parties in any other civil litigation, if pending.

Police file be returned.

April 23, 2016
sanjay

(M.M.S.BEDI)
JUDGE