

CRM-M-34965-2015

Date of Decision : 17.05.2016

Kulvinder Singh and another

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Vikas Singh, Advocate
for the petitioners.

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

Mr. Sanjiv Sharma, Advocate
for the complainant.**M.M.S. BEDI, JUDGE (ORAL)**

The petitioners seek concession of pre arrest bail in a case registered at the instance of Satish Kumar alleging that the petitioners entered into an agreement of sale with complainant on 28.07.2014 on receipt of earnest money of Rs. 10 lacs agreeing to execute the sale deed in favour of the complainant by 13.05.2015. The complainant, later on, found that petitioner No. 1 had already entered into an agreement of sale with one Lakhwinder Singh regarding the same land on 22.05.2006. There had been civil litigation initiated by Lakhwinder Singh against petitioner No. 1 Kulvinder Singh in which the suit had been finally decreed for alternative relief i.e. for refund of the earnest money.

Counsel for the petitioners submits that so far as the dispute with Lakhwinder Singh is concerned, the controversy stands already settled and that the complainant has got nothing to do with the previous litigation or proceedings. Counsel for the petitioners has submitted that

petitioners are ready to furnish an undertaking to execute the sale deed even now in favour of the complainant on receipt of balance sale considerations at the rate of Rs. 13 lacs per acre though the agreement was at the rate of Rs. 15,60,000/- per acre.

The complainant present in the Court is reluctant to pay the balance sale consideration and get the sale deed executed.

In view of the above circumstances, it is apparent that the dispute is pertaining to enforcement of legal rights accruing from an agreement of sale. It will not be feasible for this Court to determine as to which of the party is ready to perform his part as per the agreement of sale.

After hearing learned counsel for the petitioners and counsel for the complainant and striking the balance between the civil and criminal rights of both the parties I am of the opinion that the intention of the petitioners from the inception appears to be doubtful as they had already fought litigation, after receipt of earnest money, for a long duration with Lakhwinder Singh. The offer to transfer land on receipt of Rs. 10 lacs, to the complainant, does not inspire confidence and the complainant is also apprehensive, in this regard.

Taking into consideration the rights of both the parties, I am of the opinion that the petitioners can be granted the concession of pre-arrest bail subject to discharging their part of the liability to the extent of Rs. 5 lacs without prejudice to the right of the complainant to avail other legal remedy besides launching of the criminal prosecution.

Petition is allowed. It is ordered that in case of arrest of

petitioners, they will be released on bail to the satisfaction of the arresting officer subject to the following conditions:-

- 1) Petitioners will hand over a bank draft of Rs.5 lacs by 17.07.2016 to the complainant without prejudice to the legal rights of the complainant for recovery of the balance amount.
- 2) Petitioners will join investigation as and when required by the investigating officer.
- 3) They will not tamper with the evidence or hamper the investigation in any manner.

It is made clear that in case the amount of Rs. 5 lacs is not paid in the shape of bank draft within the above said period, it will be open to the complainant or the prosecution agency to approach this Court for cancellation of this order of bail.

(M.M.S. BEDI)
JUDGE

17.05.2016
Neha