

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

CRM-M No.36765 of 2016.

Date of Decision: 10.11.2016.

Shamsher Singh and another

....Petitioners.

VERSUS

State of Punjab

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Tarun Vir Singh Lehal, Advocate
for the petitioners.

Mr. Neeraj Sharma, Assistant Advocate General, Punjab.

Mr. Baljinder Singh, Advocate for the complainant.

SNEH PRASHAR, J.

The petitioners are wanted in case bearing First Information Report No.149 dated 07.09.2016 under Section 420/34 of the Indian Penal Code (for short, "IPC") registered at Police Station City Rupnagar. Apprehending their arrest, they have moved the instant petition for being given the benefit of anticipatory bail.

The accusation of the complainant in the First Information Report got registered by him was that petitioners Shamsher Singh and Ranjodh Singh alongwith Bant Singh son of Sarban Singh executed an agreement to sell dated 07.12.2013 in his (complainant's) favour in respect of their land measuring 6 Kanals 10 Marlas. The sale consideration was

sum of ₹40 lacs was received by the petitioners-venders. On the target date i.e. 31.12.2014 for execution and registration of the sale deed, the time for the said purpose was extended by executing a written agreement till 30.06.2015. On 15.01.2015 at the time of payment of an amount of ₹5 lacs, it was agreed that whenever the purchaser-complainant shall pay the balance amount, petitioners-venders shall be bound to execute the sale deed. Subsequently, the petitioners through an advocate gave a legal notice to the complainant stating that the agreement to sell stood cancelled and the earnest money paid had been forfeited. The complainant added that he had been cheated by the venders-petitioners.

The submissions made by Mr. Tarun Vir Singh Lehal, learned counsel representing the petitioners, Mr. Neeraj Sharma, learned Assistant Advocate General, Punjab and Mr. Baljinder Singh, learned counsel representing the complainant have been heard.

Learned counsel for the petitioners submitted that the factum of execution of the agreement to sell dated 07.12.2013 by the petitioners alongwith Bant Singh in favour of complainant Jaswant Singh is not a matter in dispute. However, as incorporated in the agreement to sell, the date fixed for execution and registration of the sale deed was 31.12.2014. On the target date, admitting to have received a sum of ₹35 lacs till that date out and on receipt of ₹5 lacs more towards earnest money, it was agreed between the parties that another sum of ₹5 lacs will be paid by the complainant to the petitioners-venders on 15.01.2015. A fresh agreement to sell (Annexure-P5) was executed according to which the parties by mutual consent fixed the date for execution and registration of the sale deed as

petitioners on 15.01.2015 vide receipt (Annexure-P6), but thereafter the complainant failed to pay the balance amount on or before the target date i.e. 30.06.2015, because of which the petitioners issued the legal notice cancelling the transaction of sale. Learned counsel contended that the dispute is purely of civil nature and the instant case has been falsely got registered by the complainant.

Mr. Baljinder Singh, Advocate filed his Power of Attorney on behalf of the complainant and submitted that in the receipt dated 15.01.2015 executed by the petitioners in lieu of the amount of ₹5 lacs received by them towards earnest money, they had specifically mentioned that they shall be bound to execute the sale deed as and when the purchaser shall pay the balance amount. In the said receipt, it was nowhere mentioned that the sale deed would be executed and registered by the petitioners on payment of balance amount of sale consideration on 30.06.2015. Their said contention, which prompted them to issue a legal notice to the complainant, indicated that from the very beginning their intention was to defraud the complainant and cheat him of the amount paid by him as earnest money.

It is a question of interpretation of terms and conditions of the agreement to sell initially executed between the parties on 07.12.2013 and subsequently executed on 31.12.2014 and also the terms of the receipt dated 15.01.2015 executed by the petitioners on further payment of ₹5 lacs. The facts, as indicated by the documents have not been questioned at this stage.

Prima-facie the dispute between the parties is purely of civil nature. The petitioners were enlarged on interim bail vide order of this Court dated 13.10.2016. It is not the allegation that they had breached any

Procedure, subject to which the relief was granted to them.

In view of the facts and circumstances and without going into the merits of the case and least any expression above may prejudice the case of either side, the petition for anticipatory bail filed by the petitioners is allowed. In the event of their arrest, they will be admitted to anticipatory bail to the satisfaction of the Arresting Officer, subject to the following conditions:-

- (1) that they shall make themselves available for interrogation by the Investigating Officer as and when required;
- (2) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer and;
- (3) that they shall not leave India without prior permission of the Court.

The petitioners will appear before learned trial Court within 30 days from the date they are admitted to bail by the Arresting Officer and will file an application for regular bail. On their doing so, they will be admitted to bail on furnishing bonds to the satisfaction of learned trial Court.

(SNEH PRASHAR)
JUDGE

10.11.2016
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Whether speaking/ reasoned : Yes

Whether Reportable : No