

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 204-A

Criminal Miscellaneous No.M-36772 of 2016 (O & M)
Date of Decision: *December 22, 2016*

Davinder Singh

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. Sartej Singh Narula, Advocate, for the petitioner.

Mr. R.P.S. Sidhu, Assistant Advocate General, Punjab.

Mr. I.S. Luthra and Mr. D.P. Singh, Advocate, for the complainant.

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Jaspal Singh, J

1. By virtue of instant petition preferred under Section 438 Cr.P.C., petitioner has sought pre-arrest bail, feeling apprehension of his arrest, in case bearing FIR No.156 dated September 7, 2015 under Sections 420, 120-B IPC, registered at Police Station, Sadar, Ludhiana.

2. On October 13, 2013, while issuing notice of motion, following order was passed by this Court:-

“Prayer is under Section 438 Cr.PC for grant of anticipatory bail to the petitioner-Davinder in case FIR No.156 dated 7.9.2015 for offences punishable under Sections 420, 120-B of Indian Penal Code registered with Police Station Sadar, Ludhiana, Punjab.

Petitioner accused is one of the six directors of M/s City Scape Land Developer Pvt. Ltd., Ludhiana (Developer Company) engaged in the business of development of residential colonies. The non applicant/coaccused Jatinder Pal Singh and Satinder Pal Singh are the

Directors actually engaged in entering into agreement to sells with proposed allottees of plots in the residential colony floated by the aforesaid private company.

As per the allegations the complainant Harminder Singh had booked a residential plot measuring 150 Square Yards and has paid a sum of Rs.10,12,500/- out of the total projected cost of Rs.20 lacs pursuant to the agreement to sell dated 30.08.2012 Annexure P-4, without the company owning the land or obtaining prior permission from the GLADA. Thus, it is submitted that he has been duped of the aforesaid amount.

It is contended that in the agreement to sell P-4 entered between the complainant and on behalf of the private company, it was specifically recited that the land was still owned by the original land owners who had executed a Agreement to Sell in favour of the Company. It is also stated that development of the project would be undertaken after taking permission from the PUDA/GLADA. The permission having been denied, the project has not taken off and private Company is ready and willing to refund the amount paid by the complainant. He further submits that the main accused i.e. the signatories of the agreement to sell Jatinder Pal Singh and Satinder Pal Singh have been extended the benefit of anticipatory bail, whereas no specific allegations have been levelled against the present accused.

Notice of motion for 29.11.2016.

In the meanwhile, in the even of arrest of the petitioner, he shall be released on bail on furnishing of adequate bail and surety bonds to the satisfaction of the arresting/investigating officer. Petitioner shall appear before the IO as and when called upon for investigation and shall also be bound by the conditions stipulated under Section 438(2) Cr.PC.”

3. Subsequent thereto, petitioner was directed to deposit a sum of ₹ 10,12,500/- on behalf of the Company, in pursuance of which, drafts have already been deposited on behalf of the Company in the court of Chief Judicial Magistrate, Ludhiana. Petitioner had also joined the investigation and as such, he is no more required for further interrogation. Moreover, co-accused of petitioner, namely, Barinder Singh and Gagandeep Singh, who are similarly situated and are Directors of M/s City Scape Land Developer Pvt. Ltd., Ludhiana, have already been granted the concession of interim bail. Apart from it, Jatinderpal Singh and Satinderpal Singh, who are signatories of the agreement of sale, have also been released on pre-arrest bail vide order dated September 13, 2016 passed by the Additional Sessions Judge, Ludhiana. Case of the petitioner is not on different footings than that

of aforesaid persons. Thus, this Court is of the considered view that a case is made out to exercise discretion under Section 438 Cr.P.C.

4. In the light of what has been discussed above, petition is allowed. Order dated October 13, 2016 is made absolute, subject to the conditions envisaged under Section 438(2) Cr.P.C.

December 22, 2016
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No