

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CRM-M No. 3684 of 2016 (O&M)  
Date of Decision: 09.02.2016**

Gaurav Arora

..... Petitioner

Versus

State of Haryana

..... Respondent

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

Present: Mr. R.S. Cheema, Sr. Advocate assisted by  
Mr. Rajiv Kumar Trikha, Advocate  
for the petitioner.

Mr. Satish Saini, DAG, Haryana  
for the respondent/State assisted by ASI Surjit Singh.

Mr. Sanjeev Manrai, Sr. Advocate assisted by  
Mr. Gaurav Talwar, Advocate  
for the complainant.

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**JASWANT SINGH, J. (ORAL)**

Prayer is for grant of regular bail on behalf of the accused-petitioner in case FIR No. 357, dated 18.10.2012, for offences punishable under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, registered at Police Station DLF Qutab Enclave, District Gurgaon.

Undisputed facts are that plot No. 467, Sector 27, Gurgaon belonging to EWS category was allotted to one Sushil Kumar in the year 2001 and there was an embargo on its sale till 2011. Petitioner claims to have purchased the same after paying full consideration, albeit, without any documents. Thereafter, admittedly the petitioner executed an agreement to sell dated 31.5.2006 with complainant-Harvinder Pal Singh for the sale of the said plot and received the total sale consideration of Rs.22.35 lacs. In the agreement to sell (**Annexure P-2**) concededly he posed as owner and in possession of the said plot although he was not

recorded as the owner nor it is alleged that he disclosed that the same was owned by Sushil Kumar. The said transaction is stated to have been conducted through a property dealer, namely, Bharat Bhushan.

Learned counsel for the petitioner submits that it was brought to the knowledge of the complainant-Harvinder Pal Singh that Sushil Kumar was the original allottee and, therefore, a sum of Rs. 5 lacs towards full and final payment was paid to Sushil Kumar by the complainant vide receipt annexed as **Annexure P-4**. It is further contended that since the deal between the present petitioner and the complainant was got executed through co-accused/non-applicant-Bharat Bhushan, the entire papers relating to transfer of the property in favour of the complainant were handed over to the said Bharat Bhushan. It is next submitted that co-accused/non-applicant-Bharat Bhushan, who actually cheated the complainant, has since been granted regular bail by this Court vide order dated 14.07.2015 (**Annexure P-17**). It is further submitted that the petitioner is in custody since 28.10.2015.

Learned counsel for the complainant submits that it is the petitioner, who has received a sum of Rs. 22.35 lacs and yet neither there is any allotment nor any document in his favour. Thus, he opposes the bail of the petitioner.

Learned State Counsel, assisted by ASI Surjit Singh, is unable to refute the aspect regarding custody period of the petitioner and also states that after completion of investigation, challan has been presented. He further concedes that co-accused/non-applicant-Bharat Bhushan has since been enlarged on regular bail.

After hearing learned counsel for the complainant and perusing the final payment receipt (**Annexure P-4**) executed by Sushil Kumar, it, *prima facie*, is clear that at least the original owner cannot

escape its consequence in the suit for specific performance filed by the complainant seeking a direction against Sushil Kumar.

Without commenting on the merits of the case, keeping in view the facts noticed above; parity of treatment and custody period of the petitioner, no useful purpose would be served by keeping the petitioner/accused in custody since the trial is not likely to be concluded in near future, the present petition is allowed and the petitioner is ordered to be released on bail subject to satisfaction of Chief Judicial Magistrate/Duty Magistrate, Gurgaon.

February 09, 2016

*'dk kamra'*

**( JASWANT SINGH )  
JUDGE**