

CRM-M-40751-2016 (O&M)

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

**CRM-M-40751-2016 (O&M).
Decided on: November 16, 2016.**

Lakhpat Rai

.. Petitioner(s)

VERSUS

State of Punjab

.. Respondent(s)

*** * ***

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

*** * ***

**PRESENT Mr.Samarth Sagar, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

This is second application for the grant of pre-arrest bail in a case registered at the instance of Jaswant Singh alleging that a house had been sold to him by the petitioner though it was not free from encumbrances. The complainant had to pay money to the UCO Bank in order to save his possession and title.

Counsel for the petitioner, when confronted with the reasons and subsequent events which would entitle the petitioner to file the present second application for the grant of pre-arrest bail, has submitted that as a matter of fact the complainant had the notice about the balance of Rs.7 lac which was required to be paid to UCO Bank as loan amount as the said fact is mentioned in the sale deed and receipt.

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I have considered the contentions of the counsel for the petitioner and I am of the opinion that while dismissing the earlier application on 27.7.2016, the said point had specifically been taken and dealt with.

Counsel for the petitioner has referred to other circumstances in order to establish the bona fide of the petitioner but those circumstances seem to have already been raised and considered.

Counsel for the petitioner further submits that criminal prosecution would be barred by time under Section 468 Cr.P.C.

I have considered the above contention of the counsel for the petitioner in context to the plea of bar of limitation for launching prosecution. The sentence of three years is provided for offence under Section 420 IPC and there is bar of taking cognizance after a lapse of period of limitation under Section 468 (1) (2) (c) Cr.P.C., but it will not be appropriate for this Court to divulge upon the niceties of the trial to consider in the light of Section 469 Cr.P.C., regarding the period when the limitation would commence in the present case or whether certain period could be excluded under Section 470 Cr.P.C. and whether circumstances in the present case would warrant extension of period of limitation as per provisions of Section 473 Cr.P.C.

I have also considered the contention of the learned counsel for the petitioner that the complainant had filed a suit against the petitioner and others for permanent injunction which has been

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dismissed.

Counsel for the petitioner contends that the pleas taken up by the complainant have not been accepted by the trial Court.

On asking of the Court, counsel for the petitioner has made available copy of the judgment passed by Civil Judge (Jr. Divn.) Derrabassi, which indicate that the complainant had filed a suit for permanent injunction restraining the bank of the petitioner and one another defendant from interfering in his peaceful possession on the basis of his claim of clear title to the property. The said suit has been finally decided and dismissed on the ground of jurisdiction which does not vest in the civil Court in view of the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It has nowhere been held by the civil Court that the complainant had a knowledge about the existence of any loan towards the bank.

In view of above circumstances, I do not find any ground to entertain the present second petition for grant of pre-arrest bail. The petition is dismissed without prejudice to the right of the petitioner to approach this Court in case the matter is amicably resolved with the complainant.

(M.M.S. BEDI)
JUDGE

November 16, 2016.
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Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No