

CRM-M-40280-2015

Date of Decision : 25.04.2016

Amit Kapoor

.....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Bipan Ghai, Senior Advocate with
Mr. Paras Talwar, Advocate
for the petitioner.

Ms. Simsi Dhir Malhotra, D.A.G, Punjab.

Mr. Vibhor Bansal, Advocate
for Dhanwant Singh.**M.M.S. BEDI, JUDGE (ORAL)**

Petitioner seeks pre arrest bail in a case registered at the instance of Manmohan Singh and Davinder Singh alleging that the petitioner had committed a fraud with the complainants in connivance with J.S. Randhawa and one Mr. Sidhu by forging an agreement of sale *qua* the land of the complainants and executing an agreement of sale dated 13.08.2014 mentioning that a sum of Rs.60 lacs has been paid to the complainants as per the agreement whereas the complainants never executed any such agreement of sale with regard to their land nor they had signed any receipt of Rs. 60 lacs.

So far as the petitioner is concerned, allegation against him is that he on the basis of above said fake agreement of sale further entered into an agreement of sale with Dhanwant Singh and received a sum of Rs.38 lacs.

Counsel for the petitioner has submitted that the dispute is only civil in nature and that the petitioner himself has been duped by the impersonators of Manmohan Singh and Davinder Singh. He has paid money to the impersonators and then had entered into agreement of sale

with Dhanwant Singh against receipt of only sum of Rs.24 lacs. The execution of receipt of sum of Rs.24 lacs has been admitted by the petitioner.

Counsel for Dhanwant Singh has intervened to contend that as a matter of fact a sum of Rs.38 lacs was paid to the petitioner.

A careful perusal of the police file with the assistance of ASI Didar Singh indicates that there is no relevant documentary evidence gathered during the course of investigation regarding payment of sum of Rs.38 lacs by Dhanwant Singh to the petitioner. If any amount beyond sum of Rs.24 lacs as admitted by the petitioners, stands paid to the petitioner, it is always open to the affected party i.e. Dhanwant Singh to establish the same and recover the same in accordance with law.

Counsel for the petitioner has submitted that though the petitioner himself has been duped, still he is ready to return the admitted sum of Rs.24 lacs received by him from Dhanwant Singh.

After taking into consideration all these circumstances, it appears that the liability of the petitioner is a combination of civil as well as criminal liability. The controversy whether the liability of the petitioner qua Dhanwant Singh is Rs.38 lacs or only Rs.24 lacs can be adjudicated in a civil litigation by establishing the rival claim of the parties. In the interest of justice, the petitioner can be granted the concession of pre-arrest bail as he has admitted to refund sum of Rs.24 lacs within a period of two months. Petitioner has joined investigation. The liability of the petitioner has to be determined during the course of trial.

This petition is allowed. It is ordered that in case of arrest of petitioner, he shall be released on bail to the satisfaction of the arresting officer subject to the following conditions:-

- 1) Petitioner will pay a sum of Rs.24 lacs to Dhanwant Singh within a period of two months without prejudice to the right of Dhanwant Singh to recover the alleged remaining amount in accordance with law.
- 2) The first installment of Rs.12 lacs will be paid within a period of 15 days.
- 3) The second installment of Rs. 12 lacs will be paid by 30.06.2016.

It is made clear that in case the above said amount is not paid as per above said schedule, it will be open to Dhanwant Singh to approach this Court for cancellation of bail after 30.06.2016.

The above said amount will be paid to the aggrieved person Dhanwant Singh in the shape of bank draft in two installments as mentioned in the above conditions. Petitioner will join investigation as and when required and will not tamper with the evidence in any manner.

Nothing said in this order will prejudice the right of the complainant or Dhanwant Singh to recover the amount, if any, due in accordance with law.

(M.M.S. BEDI)
JUDGE

25.04.2016
Neha