IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 221

Criminal Miscellaneous No.M-41963 of 2016 (O & M)
Date of Decision: *December 23, 2016*

Neeraj Bhalla

..... PETITIONER

VERSUS

State of Haryana & another

..... RESPONDENT

. . .

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

. . .

PRESENT: - Mr. Narender Hooda, Advocate, with Mr. Sudhir Hooda and Mr. Sarfraj Husain, Advocates, for the petitioner.

Ms. Harpreet Kaur, Assistant Advocate General, Haryana for respondent No.1.

Mr. Vivek Sethi, Advocate, for respondent No.2.

. . .

Jaspal Singh, J

1. The instant petition has been preferred by Neeraj Bhalla under Section 438 Cr.P.C. seeking pre-arrest bail, feeling apprehension of his arrest in case FIR No.216 dated July 5, 2015 under Sections 420, 406 IPC, registered at Police Station, DLF-1, Gurgaon.

2. In brief, the case of the prosecution is that a complaint was made by complainant – Vivek Aditya Mishra who is resident of USA. Petitioner is known to his father for the last many years. He induced his father to invest money in real estate in the ratio of 60% : 40%. Complainant paid an amount of ₹ 65 lac towards the total cost of property of ₹

1,61,50,800/- but this amount was never invested in Villa No.63, Nirwana Country, Unitech, Sector – 68, Gurgaon. Petitioner also induced the complainant to invest some more amount in other property. Accordingly, he extracted ₹ 52 lac more to invest in Home Stead Company. Lateron, complainant came to know that no amount was invested by the petitioner and his assurance was false. Thus, ₹ 1.17 crore have been embezzled by the petitioner from the complainant.

3. Learned counsel for the petitioner has submitted that petitioner has been falsely implicated in this case. Complainant himself agreed to invest amount in real estate i.e. Tulip Infratech Pvt. Ltd. Both of them invested the amount for the share as per agreement executed between them. Transaction between them is a property transaction for investment in favour properties but a false case has been registered against him. There was no cheating with the complainant. Learned counsel further submitted that petitioner is ready to join investigation and shall abide by the conditions imposed upon him in case he is granted the concession of pre-arrest bail.

4. Per contra, learned State counsel assisted by learned counsel for the complainant has opposed the petition by submitting that petitioner induced the complainant to invest in property and extracted ₹ 1.17 crore. Petitioner, through e-mails, assured the complainant that the amount has been invested ₹ 65 in Villa No.63, Nirwana Country, Unitech, Sector – 68, Gurgaon and ₹ 52 lac in Home Stead Company. Lateron, the complainant came to know that petitioner has not invested the amount anywhere, rather has cheated him by making fraudulent agreement.

5. This court has given a deep thought to the rival submissions made by learned counsel for the parties and perused the record available.

6. Petitioner assured the complainant through e-mails regarding booking and investment of money in Unitech Villa but the amount of complainant was never invested nor returned to him. This is a case where huge amount has been extracted by the petitioner from complainant who is a resident of USA. Though, complainant exposed deep faith with the petitioner, yet it was the petitioner only who became dishonest but also siphoned the entrusted amount against his wishes. Allegations against the petitioner are serious and recovery of amount is liable to be effected. The provisions of Section 438 Cr.P.C. should be invoked in exceptional cases. In the case in hand, petitioner has extracted ₹ 1.17 crore from the complainant on false assurances. Custodial interrogation of petitioner is required to unearth all the ramifications involved in this case.

7. In the light of what has been discussed above, there is no merit in the instant petition and the same is hereby dismissed.

(Jaspal Singh)
Judge

December 23, 2016
avin

Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No