

Sr. No. 203

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

**CRM No. M-41078 of 2015 (O&M)
Date of Decision: 29.04.2016**

Surjit Kaur

...Petitioner

Versus

State of Haryana

... Respondent

CRM No.M-2792 of 2016 (O&M)

Chaman Lal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. S.S. Dinarpur, Advocate,
for the petitioner(s).

Mr. Rajiv Doon, AAG, Haryana.

Mr. Aman Pal, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA. J (ORAL)

This order shall dispose of CRM Nos.M-41078 of 2015 titled as Surjit Kaur Vs. State of Haryana and CRM No.M-2792 of 2016 titled as Chaman Lal Vs. State of Haryana as both these petitions have been filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioner(s) in case FIR No.136 dated 24.09.2015, under Sections 406, 420, 467, 468, 471, 506 and 120-B of Indian Penal Code, registered at Police Station Kalka, District Panchkula.

Counsel for the parties have been heard.

Allegations in brief are that the complainant had entered into an agreement to sell dated 25.10.2013 in respect of land measuring 25-1/2 Biswas with Surjit Kaur i.e. petitioner in CRM No.M-41078 of 2015. It was alleged that such agreement was a full and final agreement and the entire sale consideration of Rs.40 lacs had been made over to Surjit Kaur.

Accusation is that the sale deed for the entire land i.e. 25-1/2 Biswas has not been executed in favour of the complainant or his nominees. Complainant's stand is that the sale deed has been executed pertaining to only 12-1/2 Biswas and as such the balance pro rata sale consideration amount has been misappropriated.

On 15.12.2015, the following order was passed by this Court in CRM No. M-41078 of 2015:-

“After hearing arguments of learned counsel for the petitioner as well as State counsel and complainant, there are certain disputed facts which are not only required to be answered by the petitioner but there are allegations against witness namely Rakesh Kumar who was the GPA holder of petitioner as well.

Let petitioner join investigation and the Investigating Officer may put questions in writing to petitioner. On joining her investigation she shall be released on interim bail to the satisfaction of the Investigating Officer. The witness/GPA holder-petitioner namely Rakesh Kumar can also be asked to join the investigation.

Adjourned to 19.02.2016.”

Likewise, notice of motion order dated 27.01.2016 in

CRM No. M-2792 of 2016 reads in the following terms:-

“Counsel would inter alia contend that main accused Surjeet Kaur i.e. wife of the present petitioner has been granted ad interim protection as regards arrest in terms of order dated 15.12.2015, passed by this Court in CRM No. M-41078 of 2015.

Notice of motion, returnable for 19.2.2016.

To be heard along with CRM No. M-41078 of 2015.

In the meanwhile, petitioner is directed to join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions envisaged under Section 438 (2) Cr.P.C.”

Learned State counsel upon instructions from SI Om Parkash would apprise the Court that the petitioner(s) have since joined investigation. It is further stated that in pursuance to the order dated 15.12.2015 passed by this Court in CRM No.M-41078 of 2015 even witness/GPA holder, namely, Rakesh Kumar has joined investigation.

Counsel appearing for the petitioner(s) admits the entering into agreement to sell dated 25.10.2013 with the complainant pertaining to 25-1/2 Biswas and also concedes as regards receiving of the entire sale consideration amount i.e. Rs. 40 lacs. He, however, contends that the obligation ensuing from such agreement dated 25.10.2013 has already been made. Towards such assertion he adverts to three tabulations contained in para 6 of the present petition filed under Section 438 Cr.P.C. It is his contention

that two sale deeds dated 28.10.2013 for 3 Biswas and 4 Biswas of land and in which the vendees name has been reflected as Reeta Gupta and Lakhwinder Singh respectively have been made at the instance of the complainant.

Such assertion is vehemently opposed by the counsel appearing for the complainant and submits that such sale deeds were executed directly by the petitioner/accused Surjit Kaur in favour of the vendees and the complainant has no concern whatsoever committed fraud in such transactions.

It is a matter which throws up disputed questions of fact. The accusations and the allegations ultimately would require consideration upon evidence being adduced and appreciated at the relevant stage.

Petitioner(s) in these two petitions having already joined investigation and the documents in question already in possession of the Investigating Agency, their custodial interrogation as such would not be warranted.

Without making any observations on merits, prayer made in both these connected petitions is accepted. Petitions are allowed. Orders dated 15.12.2015 in CRM No.M-41078 of 2015 and dated 27.01.2016 in CRM No.M-2792 of 2016 are made absolute.

Disposed of.

29.04.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**