

203/203-A

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

(1)

CRM-M No. 7960 of 2015 (O&M)

Date of Decision: 28.01.2016

Jai Bhagwan

..... Petitioner

Versus

The State of Haryana

..... Respondent

AND

(2)

CRM-M No. 4847 of 2015 (O&M)

Sunita

..... Petitioner

Versus

The State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Dr. Praveen Hans, Advocate
for the petitioner(s) in both petitions.

Mr. Gaurav Dhir, DAG, Haryana
for the respondent/State assisted by ASI Dharam Pal
in both petitions.

Mr. Vivek Khatri, Advocate
for the complainant.

JASWANT SINGH, J. (ORAL)

This common order shall dispose of the both aforementioned petitions under Section 438, Criminal Procedure Code, filed for pre-arrest bail on behalf of the accused/petitioner-Jai Bhagwan (in CRM-M No. 7960 of 2015) and his co-accused/wife-Sunita (petitioner in CRM-M No. 4847 of 2015) in FIR No. 409, dated 20.12.2014, under Section 406 of the Indian Penal Code, registered at Police Station Meham, District Rohtak.

Complainant-Ram Bhagat alleges that his son/accused-Jai Bhagwan and his daughter-in-law/accused-Sunita have cheated him as well as other sons of the complainant with mala fide intention and grabbed the money amounting to Rs. 11,44,87,656/-.

This Court upon hearing on the merits of the case had, vide order dated 23.07.2015, already expressed an opinion against the claim of both the petitioners for grant of anticipatory bail. However, before the final order could be dictated, a request was made that the petitioners were willing to settle the issue with the complainant. The order dated 23.07.2015 reads as under:-

“ The prayer by the petitioners is for their release on anticipatory bail. The allegations against them are that the complainant, who is father of petitioner Jai Bhagwan, is having three sons and six daughters all of whom are married. The complainant and his wife Ram Kaur and three sons Randhir, Shree Bhagwan and Jai Bhagwan (petitioner herein in CRM-M-7960-2015) and three daughters-in-law, four grandsons, two grand-daughters, two great grandsons and two great grand daughters-in-law collectively live in a joint Hindu Family where the complainant continues to be the Karta. The total joint holding of the family is 117 kanals 5 marlas comprised in khewat No.3435 in Meham which stands in the name of the complainant and is ancestral in nature. The family is agriculturist, deriving income only from the land. The elder son Randhir was serving in the Haryana police and retired about three months earlier. The joint family had purchased land measuring 56 kanals 2 marlas situated at Meham from their own sources in favour of three members of family, namely Randhir, Shree Bhagwan and Jai Bhagwan vide sale deed Nos.161 and 162 dated 19.5.1995 for a sum of Rs.3,85,680/-. The original sale deed is in possession of petitioner Jai Bhagwan. Subsequently, the family sold this land measuring 56 kanals 2 marlas for a sum of Rs.10,52,000/- vide registered sale deed Nos.1357 and 1358 dated 28.11.2001. Out of this sale proceeds the joint family purchased some better quality land measuring 48 kanals 17 marlas situated at Hansi from Balbir and Ram Swarup. The sale

deed was executed on 5.12.2001 in the name of the complainant and mutation was also sanctioned appropriately on 5.1.2003. The family again purchased some land measuring 7 kanals 12 marlas situated at Hansi for a sum of Rs.1,49,679/- from Banwari son of Dev Raj on 18.12.2001 in the name of petitioner Jai Bhagwan on the basis of which mutation was also sanctioned. This sale deed is also in possession of the petitioner Jai Bhagwan. It was stated by the complainant that in this manner the joint family became owner in possession of land measuring 56 kanals 9 marlas situated at Hansi, but he got the mutation entered only in his name and three sons in equal shares. This land was also sold @ Rs.1,62,25,000/- per acre for a total sale consideration of Rs.11,44,87,656/-. The purpose of selling this land was to purchase land measuring 262 kanals 19 marlas situated at Meham. For the purpose the complainant appointed his son Jai Bhagwan, the petitioner, to get the sale deed executed and registered in favour of the complainant and his three sons in equal shares. However, Jai Bhagwan (petitioner in CRM-M-7960-2015), his wife Sunita (petitioner in CRM-M-4847-2015) and two sons Ravi and Keshav in collusion with each other got executed 5 different sale deeds in their names of the land measuring 262 kanals 17 marlas situated at Meham. The sale proceeds have come from the income of the joint family while their share was restricted to 1/4th and 3/4th ought to have gone to the complainant and his two sons Randhir and Shree Bhagwan. Jai Bhagwan petitioner got executed sale deed dated 24.4.2014 regarding land measuring 49 kanals 3 marlas, sale deed dated 8.9.2014 regarding land measuring 41 kanals 12 marlas, sale deed dated 2.9.2014 regarding the land measuring 20 kanals 11 marlas in the name of his wife Sunita (petitioner), sale deed dated 12.9.2014 regarding 131 Kanala 8 Marlas in his name and in the names of his two sons with dishonest intention.

With the aforesaid allegations the present FIR has been registered by the father against his son (Jai Bhagwan) his wife (Sunita) and two children.

Learned counsel for the petitioners contends that a civil suit is pending inter se between the parties and since they are related, the allegations in the FIR have to be construed to be result of

disgruntlement on account of some family dispute.

The complainant is represented and states that there was a family settlement authorising the petitioner Jai Bhagwan to carry out the transactions afore-noticed in the FIR and due to dishonest intention the entire land and sale proceeds more than Rs.11 crores have been siphoned off by Jai Bhagwan and his family members leaving the other members of the joint family deprived of their shares even though proceeds had all along come from the joint family income.

On due consideration of the matter, I am of the view that there are very serious allegations against the petitioners of having depriving the entire family of the proceeds amounting to more than Rs.11 crores which cannot lead to a conclusion that the dispute is only a family feud with no criminal intention on the part of the petitioners.

Before this Court could pronounce the final order on bail, learned counsel for the petitioners contends that he is willing to settle the issue with the complainant. In this eventuality, I deem it appropriate to give one opportunity to the petitioners to explore the possibility of settlement with the complainant.

Adjourned to 22.9.2015.

Interim order to continue till the next date of hearing.

A photo copy of this order be placed on the file of connected case. ”

The parties, thus, were referred to Mediation and Conciliation Centre of this Court. A perusal of the report reveals, which, however, could not materialize, and, therefore, is listed back for hearing before this Court.

Learned counsel for the petitioner(s) has argued more or less on the same lines as argued before this Court on 23.07.2015.

For the reasons expressed in the same as re-produced above, this Court finds no merits in the claim of both petitioners for grant of pre-arrest bail. The complainant-father and other family members have been systematically

cheated by both the petitioners for an amount more than Rs. 11 crores. The custodial interrogation for effective and meaningful investigation would thus be required.

In view of the above, the present petition stands dismissed.

January 28, 2016

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(JASWANT SINGH)
JUDGE