

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

(203)

CRM-M-9214-2016

Decided on: July 27, 2016.

Lakhpat Rai

.... Petitioner

Versus

State of Punjab

..... Respondent

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

Present: Mr. Vishal Garg Narwana, Advocate, for the petitioner.

Ms. Harpreet Kaur Athwal, DAG, Punjab.

Mr. J.P. Rana, Advocate, for the complainant.

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

Petitioner seeks concession of pre-arrest bail in a case registered at the instance of Sunehri Lal alleging that the petitioner in connivance with his wife Kamlesh Mittal and other officials of the revenue department had entered into a conspiracy and sold a house in favour of the complainant by executing a sale deed without disclosing that the petitioner and his wife had taken loan from UCO Bank. The complainant came to know subsequently that the petitioner and his wife had obtained loan against the house sold to them from UCO Bank and payment of loan was still pending. On receipt of notice from the Bank under SARFAESI Act, the complainant was compelled to pay a sum of Rs.16 lacs to the Bank.

Learned counsel for the petitioner has vehemently contended that the complainant had knowledge about the house having been mortgaged with UCO Bank when it was sold by the petitioner and his wife to the complainant.

With the assistance of learned counsel for the petitioner, I have gone through the photocopy of receipt Annexure P-5 wherein it is mentioned that the total sale consideration of the house was Rs.16 lacs and that a sum of Rs.11 lacs had been received by the petitioner and his wife. It is noted in the receipt that balance sale consideration of Rs.7 lacs will be received after clearing the loan of UCO Bank, Sector 17, Chandigarh. The original of said receipt has not been brought on the record. It is claimed by the complainant and the prosecution agency that there is no receipt Annexure P-5 in original and that the copy placed on the record is a fabricated document.

It has also been argued by learned counsel for the petitioner that the wife of the petitioner has been granted concession of bail in similar circumstances.

After hearing learned counsel for the petitioner, learned counsel for the complainant and learned State counsel, I have gone through the record.

It is apparent that the house was sold to the complainant in the year 2006 whereas it stood mortgaged with the Bank against loan of Rs.11 lacs in the year 2004. The said mortgage was not reflected in the revenue record nor it was brought to the notice of the complainant. The complainant had to suffer loss to save the property by paying a sum of Rs.16 lacs to the Bank. Prima facie, the petitioner has committed offence of cheating by persuading the complainant to part with money against the property which was already mortgaged, without disclosing the same and taking advantage of the same being not reflected in the revenue record.

No doubt the wife of the petitioner has been granted concession of bail, but the fact that she was a lady weighed with the Court, while granting bail to her.

No extraordinary exceptional circumstances exist to grant the concession of pre-arrest bail to the petitioner as the authenticity of the receipt Annexure P-5 and other documents is yet to be determined.

The petition is dismissed.

Interim order vacated.

Nothing said in this order will prejudice the right of the petitioner to seek concession of regular bail on appearing before the area Magistrate or the investigating officer or approach this Court again in case the matter is at any stage amicably resolved.

(M.M.S. BEDI)
JUDGE

July 27, 2016
harsha

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No