IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.10354 of 2016(O&M)
Date of Decision:14.02.2017

Ramesh Kumar Bansal ....Petitioner

Versus

UT of Chandigarh ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rakesh Chopra, Advocate
for the petitioner.

Mr. Rajiv Sharma, Standing counsel
for UT. Chandigarh.

Mr. Tarun Aggarwal, Advocate and
Mr. O.S. Batalvi, Advocate
for the complainant.

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RAJ MOHAN SINGH, J.

[1]. Petitioner has prayed for grant of anticipatory bail in case bearing FIR No.389 dated 29.09.2015 registered under Sections 420, 467, 468, 471 IPC at Police Station Sector 17, Chandigarh (UT).

[2]. FIR came to be registered at the instance of Harish Goyal who alleged that there is a Firm in the name and style of M/s Ram Nath Aggarwal. A Mercedes Benz was purchased in the name of aforesaid Firm on 27.03.2009 and the same was financed by ICICI Bank for an amount of Rs.27,00,000/-. The loan amount was repaid by the complainant. The accused mentioned in the FIR were known to the complainant. An

understanding was done in respect of selling the aforesaid car between the complainant and the petitioner for an amount of Rs.27,00,000/-. An amount of Rs.1.50 lacs was paid as a token money and the balance amount was to be paid in three equal installments by the petitioner and Varun Kumar Bansal upto 30.01.2015. The possession of the vehicle was delivered to the petitioner and aforesaid Varun Kumar Bansal on 03.11.2014.

[3]. Further allegations are that the remaining amount was not paid despite asking, rather threats regarding elimination were given. The complainant applied for RTI information in respect of status of the vehicle. On receipt of information, complainant came to know that the ownership of the vehicle was fraudulently got transferred by the petitioner by way of forging signature of the complainant and impersonating him by way of affixing his photograph on the affidavit, which was given in the office of Registering and Licensing Authority on 09.12.2014. The vehicle was got transferred in a fraudulent manner. As per complainant, accused-petitioner without paying the balance consideration got the vehicle transferred in a fraudulent manner and thus committed an offence. The main allegation was in respect of transfer of vehicle by way of impersonation and fraudulent means adopted by the petitioner.

[4]. The matter was listed before the Coordinate Bench of this Court on 29.03.2016 and the following order was passed:-

> *"Prayer is under Section 438 Cr.PC for grant of anticipatory bail to the petitioner Ramesh Kumar Bansal in case FIR No.389 dated 29.09.2015 for offences punishable under Sections 420, 467, 468, 471 of Indian Penal Code registered with Police Station Sector 17, Chandigarh.*
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> *As per the allegations levelled by complainant Harish Goyal a Mercedes Benz E Class Car was purchased by him in the name of his proprietorship firm in the year 2009. The present accused by forging documents has illegally got the ownership transferred in his name in the year 2014.*
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> *It is contended that in fact the entire payment was made by the present petitioner-accused although purchased in the name of the proprietorship firm. The possession and insurance policy of the said vehicle was throughout with and in the name of the present petitioner. The stand is stated to be fortified from the fact that the FIR was lodged after almost one year of the alleged transfer. It is submitted that the petitioner is ready to join investigation and also amicably settle the matter with the complainant.*
>
> *Notice of motion for 27.04.2016.*
>
> *In the event of his arrest, petitioner*

> *shall be released on interim bail subject to the satisfaction of the arresting/investigating officer. However, he shall join the investigation as and when called upon to do so and abide by the conditions as envisaged under Section 438(2) Cr.PC."*

[5]. Apparently, the petitioner projected his readiness to join the investigation and also amicably settled the issue with the complainant. Thereafter, what has happened is a matter of record. According to learned counsel for the complainant, petitioner has not made any sincere effort to settle the matter despite obtaining interim protection from this Court. The stand of the petitioner to the aforesaid objection can be culled out from the reply placed on record wherein it has been contended that petitioner was always ready and willing to settle the issue with the complainant after the order dated 27.04.2016 and he had personally visited the complainant for asking him as to why complainant has got the FIR registered against him. The reply did not reveal anything in the context of making an effort to compromise the issue, rather the petitioner has projected his stand that the car in question was purchased by him out of the amount of Shagans as well as the amount contributed by his relatives. The reference of order dated 27.04.2016 has been made as on the said date, learned State counsel submitted that

FSL report was awaited. There was no reference of order dated 29.03.2016 given by the petitioner in his reply wherein he obtained interim protection from the High Court on showing his readiness and willingness to settle the issue with the complainant.

[6]. Learned counsel for the petitioner by referring to documents/annexures on record contended that the insurance was already with the petitioner as he had paid the amount to the complainant. The address shown in the insurance document is of Mandi Gobindgarh, but the insurance is in the name of M/s Ram Nath Aggarwal to which petitioner has no concern. The insurance related to the period from 01.04.2013 to 31.03.2014 and the vehicle was registered on 01.04.2009. Similarly, learned counsel relied upon subsequent insurance which was also in the name of M/s Ram Nath Aggarwal and address of Mandi Gobindgarh was given. In the letter dated 14.03.2011, communication was received from Tata AIG General Insurance Company Ltd. in the name of M/s Ram Nath Aggarwal on the address of the petitioner.

[7]. In sum and substance, stand of the petitioner is that the parties were having good relationship and that is why, the vehicle was got insured on the address of the petitioner and the petitioner always remained in possession of the vehicle. In

addition to the aforesaid documentation in respect of insurance and communication received from the Insurance Company, learned counsel also relied upon photographs of the petitioner and other documents showing that the petitioner was having number of vehicles in the series of 0089 and the aforesaid number being the preferred number of the petitioner, therefore, vehicle in question was in fact purchased by him, but in the name of M/s Ram Nath Aggarwal. Since 2009, the vehicle was in his possession and the registration of FIR is illegal. By referring to photographs Annexures P6 to P9 of different dates and memorandum of understanding Annexure P10 dated 31.10.2014, learned counsel emphasized that the possession of the vehicle with the petitioner was on permissive note and no offence has been committed by him. The change of address from Mandi Gobindgarh to Chandigarh was also sought to be explained with reference to contact phone number of the petitioner.

[8]. Learned counsel vehemently submitted that the entire controversy relates to civil rights of the parties to the *lis* and therefore, custodial interrogation of the petitioner is not at all required. Learned counsel also sought to argue on the strength of Annexures P11 to P15 to claim possessory right over the vehicle in question in order to nullify the effect of offences for

which he has been booked in the case.

[9]. On the other hand, learned standing counsel for U.T. Chandigarh assisted by learned counsel for the complainant relied upon the affidavit submitted by the petitioner in the context of seeking transfer of the vehicle. The affidavit was in fact on behalf of Ram Nath Aggarwal wherein he was shown to be M/s Ram Nath Aggarwal, but the signatory to the affidavit is somebody else, whose signatures could not be positively commented upon in the FSL report. Similarly, other documents were also allegedly executed by the petitioner. His photograph also appeared in one of the affidavit. However in the affidavit carrying questioned signatures Q5 to Q9, the photograph of someone else was affixed.

[10]. In nutshell, the argument of the complainant side is that the offence alleged against the petitioner is in the context of forgery while seeking transfer of the vehicle and the order dated 29.03.2016 passed by this Court was violated with impunity, as no effort was made by him for such a long period and the benefit of interim relief/protection was availed by the petitioner without there being any *bona fide* effort to settle the issue with the complainant. The alleged possessory right has nothing to do with the act of forgery and impersonation while getting the vehicle transferred.

[11]. At this stage, both the parties have tried to project their case on merits. Having considered the controversy within the scope of Section 438 Cr.P.C, I am not inclined to grant benefit of anticipatory bail to the petitioner as this Court cannot decide possessory right of the petitioner in the absence of title to the vehicle at this stage on the strength of documents attached and submitted before this Court. The stand of the petitioner has nothing to do in the context of transfer of the vehicle, done on the basis of alleged forged and fabricated affidavit and documents submitted in the Registering and Licensing Authority. Even though the FSL report is not conclusive, but the fact remains that on Form No.34 of the booklet of transfer of ownership, affidavit of the petitioner has appeared. On the separate affidavit containing specimen signature of petitioner, photograph of some third person has been affixed. Resultant effect is that vehicle has been transferred on the basis of these documents to which petitioner does not claim himself to be the signatory. The ultimate beneficiary is the petitioner who can tell about the complicity of the persons involved in the transfer of vehicle.

[12]. At this stage, this Court is not in a position to comment anything on the ultimate merits of the case, *lest* it may prejudice the case of either sides at the trial. Evidently, the order dated

29.03.2016 has been flouted by the petitioner. The reply submitted on that premise is also evasive with regard to the efforts made by the petitioner in the context of settling the issue. Reference to order dated 27.04.2016 in any case does not advance the case of the petitioner to show any compliance to order dated 29.03.2016.

[13]. At this stage, without commenting anything on the merits of the case, I am of the view that the order dated 29.03.2016 has not been complied with by the petitioner, rather stand contrary to the submissions made at the bar on 29.03.2016 has been taken to dilute the rigour of order dated 29.03.2016 vide which interim protection was granted to the petitioner. It appears that petitioner without complying with the aforesaid order has already misused the concession of interim protection granted by this Court. Conduct of the petitioner cannot be treated to be bona fide. Resultantly, this petition is dismissed.

(RAJ MOHAN SINGH)
14.02.2017 **JUDGE**
prince

Whether Reasoned/Speaking **Yes/No**

Whether Reportable **Yes/No**