

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

**CRM-M No.11157 of 2017(O&M)
Date of Decision: 17.05.2017**

Rajbala Devi and anotherPetitioners

Versus

State of Haryana ... Respondent

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

Present:Mr. T.S. Sangha, Sr. Advocate with
Mr. Narinder Singh, Advocate
for the petitioners.

Mr. P.P. Chahar, DAG, Haryana.

Mr. M.S. Tewatia, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(ORAL)

Prayer in this petition is for grant of anticipatory bail in case bearing FIR No.201 dated 04.03.2017 registered under Sections 420, 406, 467, 468, 471, 120-B IPC at Police Station Sector 10, Gurugram.

Complainant alleged that petitioner No.1 executed an agreement to sell on 27.02.2016 in respect of her house in Sector 9, Gurugram for a total sale consideration of Rs.1,80,00,000/-. An amount of Rs.40,00,000/- was paid by the complainant to the accused as earnest amount. 30.04.2016 was fixed as a target date for execution and registration of the sale deed. Rajbala Devi/petitioner No.1 was under obligation to obtain NOC from the competent authority. Her son Satbir

became attesting witness to the agreement. The dates for execution of sale deed were extended at the instance of the accused. Amount of Rs.90,00,000/- was allegedly received by the accused. Further allegations are that the accused neither executed the sale deed, nor returned the amount of Rs.90,00,000/- to the complainant.

The stand of the petitioners is that out of amount of Rs.90,00,000/-, an amount of Rs.83,00,000/- has already been paid to the complainant vide receipt dated 10.11.2016. Petitioners admitted that the remaining amount of Rs.7,00,000/- is still with them and they are ready to make good the same. On the aforesaid issue, a reliance was sought to be placed by the petitioners on the reports given by private experts in the context of payment of aforesaid amount of Rs.83,00,000/-.

On 05.04.2017, original receipt was handed over to the Investigating Officer namely ASI Ghanshyam Singh in order to ascertain its authenticity. On 19.04.2017, learned counsel for the petitioners brought to the notice of the Court that petitioners have already got the signatures of the complainant appearing on cash receipts compared with the signatures of the complainant on the agreement to sell and the reports of Dr. Shruti Gupta, A.D. Detective and J.K. Consultancy were the testimonies in the aforesaid context. Learned State counsel

sought time in order to obtain necessary report from Forensic Science Laboratory. The report submitted by the private agencies were also supplied to the Investigating Officer so as to confirm their authenticity.

Today, learned State counsel has produced FSL report dated 01.05.2017. As per this report, the person who wrote red enclosed standard signatures stamped and marked A1 to A3 and S1 to S6 did not write red enclosed questioned signatures similarly stamped and marked Q1.

Perusal of the aforesaid report shows that the stand taken by the petitioners in the context of payment of Rs.83,00,000/- vide receipt dated 10.11.2016 is prima facie false.

Faced with this situation, learned Senior Counsel Mr. T.S. Sangha duly assisted by Mr. Narinder Singh, Advocate for the petitioners submits that so far as complicity of petitioner No.2 is concerned, there is no overt-act shown in the FIR in respect of his alleged role in the entire episode. The perusal of the FIR shows that the prosecution story is revolving around the complicity of petitioner No.1 and her son Satbir. ASI Ghanshyam Singh submits that Satbir has already been arrested and is still in custody. The allegations levelled in the FIR viz-a-viz the complicity of petitioner No.2 would be arguable.

In view of above, this petition is dismissed qua petitioner No.1. However, petitioner No.2 is directed to join the investigation as and when called upon to do so by the Investigating Officer/Arresting Officer and in the event of his arrest, he shall be enlarged on bail, subject to the satisfaction of Arresting Officer. However, petitioner No.2 shall abide by the conditions incorporated under Section 438(2) Cr.P.C.

17.05.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Whether Reportable

Yes/No

Yes/No