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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11293-2017

Date of decision : 11.04.2017

Babu Singh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jai Bhagwan Sharma, Advocate
for the petitioner.

Mr. Kapil Aggarwal, Addl. A.G., Haryana.

AMIT RAWAL, J. (ORAL)

The petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for deleting the condition to return all the consideration amount to complainants whose sale deeds is not executed within two months imposed by learned Additional Sessions Judge, Faridabad while granting Regular Bail to the petitioner vide order dated 16.02.2017 (Annexure P-1) in the FIR No.510 dated 11.08.2016 (Annexure P-2) under Sections 420, 406, 423, 467, 468, 471, 34, 120-B IPC registered against the petitioner at Police Station Sarai Khawaja, Faridabad District, Faridabad being illegal, against the provisions of Cr.P.C., and without jurisdiction.

Learned counsel for the petitioner submits that the learned Additional Sessions Judge while granting the Regular Bail to the petitioner

had imposed the condition of returning the amount to the complainant as it is purely a civil matter and which cannot be adjudicated in the criminal proceedings.

He further submits that it would tantamount to admission of the guilt. The remedy, if any, to the complainant is to avail the appropriate remedy in accordance with law i.e. either by seeking cancellation of the sale deed or recovery of the amount, if at all, the allegations made in the FIR are to be true by leading direct and cogent evidence and the basis would be of revenue record, but not in the manner and mode.

Mr. Kapil Aggarwal, Addl. A.G., Haryana has filed the reply on behalf of the State/respondent(s) in Court today and submits that the condition imposed by the learned Additional Sessions Judge is perfectly legal and justified.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the imposition of a condition of returning the amount to the complainant while granting the regular bail should not have been incorporated for, it tantamounts to *prima facie* admission of the guilt, much less, bypassing the remedy available to the complainant either to go to Civil Court or any other mode, but not by registration of the FIR for refund of the amount. The Courts should have been circumspect in imposing the penalty.

Keeping in view the aforementioned facts, condition of returning the amount to the complainant imposed by the learned Additional Sessions Judge in the order dated 16.02.2017, is hereby set aside and rest of the order with regard to the grant of regular bail to the petitioner, is

affirmed.

The writ petition stands disposed of with the aforesaid observations.

11.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No