

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

**Crl. Misc. No.M-11476 of 2017 (O&M)
Date of Decision: September 26, 2017**

Akshay and another

.....PETITIONER(s).

VERSUS

State of Haryana

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Surinder Mohan Sharma, Advocate
for the petitioner (s).

Mr. Ashish Yadav, Addl. AG, Haryana.

Mr. Ravinder Hooda, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioners in case FIR No. 247 dated 31.12.2016 registered for the offences punishable under Sections 420, 448, 506 read with Section 34 of Indian Penal Code at Police Station Line Paar, Bahadurgarh, District Jhajjar.

Heard.

Learned State counsel on instructions from ASI Narender Singh submits that petitioners have joined the investigation which is still in progress but their custodial interrogation is not required for the purpose of further investigation.

Learned counsel for the complainant submits that petitioner No. 2 after selling the disputed i.e her house to the complainant vide sale deed dated 04.06.2015, has sold the same again to different persons.

As per the allegations in the FIR, the house in question was

sold by petitioner No. 2 to complainant, however, she retained the

possession of the house on the pretext that her house is under construction. Thereafter, she gave the portion of the house to tenants and did not hand over the same to the complainant.

As per the allegations in the complaint, complainant is owner of the disputed property but has not been delivered the possession of the same.

Even if, this contention of learned counsel for the complainant that she has sold the house to some other persons be considered, the question which may arise before investigating agency is as to whether in the absence of any complaint by subsequent buyers and on the allegations in complaint offence of cheating is made out against petitioner. As the petitioners have already joined the investigation and their custodial interrogation is not required by police, this petition is allowed and the order dated 03.04.2017 is made absolute till the presentation of challan, subject to the following terms:-

- (i) that the petitioners shall make themselves available for interrogation by the police as and when required;
- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioners shall not leave India without the prior permission of the Court.
- (iv) that the petitioners will seek regular bail on the presentation of challan in Court, which the trial Court will decide on the basis of evidence collected during investigation.

(SURINDER GUPTA)
JUDGE

September 26, 2017

Jyoti-II

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No