

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-15955 of 2016 (O&M)
Date of Decision: 28.02.2017

Ravinder Kumar

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. P.K.S. Phoolka, Advocate for the petitioner.

Ms. Harpreet K. Athwal, D.A.G., Punjab.

Mr. A.S. Kakkar, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of anticipatory bail to the petitioner in case F.I.R. No.2 dated 06.01.2016 under sections 420, 34 I.P.C, registered at Police Station, Canal Colony, Bathinda.

FIR came to be registered on the complaint of Rajesh Chhabra with the allegations that a fraud amounting to Rs.7,20,000/- has been committed by the present petitioner as also his wife namely Nisha Rani as the aforesaid amount had been made over in pursuance to an agreement to sell for a 50 sq. yards house against a total sale consideration of Rs.7,75,000/- as neither the sale deed has been executed nor the amount has been returned.

On 9.5.2016, while issuing notice of motion, the following order was passed by this Court:-

“Petitioner apprehends arrest in a case registered at the instance of Rajesh Chhabra alleging that he has some family dispute in March 2012 with his family members and he wanted a separate residence. He talked to the petitioner who

suggested him to purchase a house which he has been constructing in a land measuring 50 sq. yards and he was ready to alienate the same for sum of Rs.8 lacs. The complainant was persuaded to sell his land for a sum of Rs.7.75 lacs and a sum of Rs.7.20 lacs has been received by the petitioner. The petitioner allegedly neither returned the money nor sold the property by registered deed to the complainant.

Counsel for the petitioner has submitted that as a matter of fact a sum of Rs.50,000/- had been taken by the petitioner as loan from the complainant. The said amount has already been returned but in order to harass the petitioner on the basis of documents signed by him, an attempt is being made to extort money from the petitioner by the complainant.

Notice to the Advocate General, Punjab, for 2.8.2016.

Meanwhile, an interim direction is issued that the petitioner will join investigation on or before 21.5.2016 or on any other day as required by the Investigating Officer. In case of petitioner doing so, he shall be released on interim bail to the satisfaction of the arresting officer.”

Learned State counsel upon instructions from HC Jagtar Singh would apprise the Court that the petitioner has since joined investigation.

Counsel appearing for the complainant has vehemently opposed the present petition and contends that interim protection was secured by misleading this Court. Counsel during the course of hearing would advert to an agreement to sell dated 19.7.2013 and which as per him had been entered into between the petitioner and the complainant. Counsel submits that it is clearly recited in the agreement that a sum of Rs.7,20,000/- has been furnished towards earnest money and the sale deed was to be executed on or before 19.10.2013. Counsel contends that the accused has duped complainant of a huge sum of money and as such is not entitled to the

concession of anticipatory bail.

Counsel appearing for the petitioner, however, has read out the FIR which contains the complainant's version and as per which earnest money of Rs.7,20,000/- has been advanced against a total sale consideration of Rs.7,75,000/-. Counsel submits that the allegations on the face of it are improbable as it is the complainant's version himself that at the time of entering into the deal he was accompanied by one Ashok Kumar son of Sudarshan Kumar and the petitioner having been called upon to show the title documents had produced a photocopy of a registry which reflected ownership of the house in question in the name of one Shashi Kant Sharma and Robin Kumar. Counsel for the petitioner contends that if such version of the complainant is taken to be correct at its face value, there was no occasion for the complainant to have parted with a sum of Rs.7,20,000/- against the total sale consideration of Rs.7,75,000/-.

The contention raised on behalf of the petitioner cannot be said to be without merits. Noting further is being observed lest it may prejudice the rights of the parties.

The petitioner having joined investigation and against the backdrop of the allegations leading to the registration of the FIR, is held entitled to the concession of anticipatory bail.

Accordingly, the present petition is allowed. The order dated 9.5.2016, passed by this Court, is made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

28.02.2017

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Whether speaking/reasoned: Yes
Whether Reportable: Yes