290

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-28517 of 2016
Date of decision: July 10, 2017

Rattan Lal

......Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Surya Parkash, Advocate the petitioner.

Mr. G.S. Salwara, DAG Haryana.

Mr. H.P.S. Ishar, Advocate for the complainant.

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A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

In FIR No.115 dated 23.07.2016, under Sections 406, 420, 467, 468, 471, 120-B of Indian Penal Code, 1860, registered at Police Station Kalka, District Panchkula, the petitioner seeks grant of anticipatory bail.

This Court had made an order dated 19.08.2016 granting *ad interim* anticipatory bail to the petitioner.

Learned counsel for the petitioner vehemently argued that the petitioner has joined investigation and his custody is not necessary and therefore, *ad interim* anticipatory bail order deserves to be confirmed. He, further contended that transactions are not with Loveleen Kaur-Complainant, but with her uncle who is working as a Patwari in the Government service and is also doing business of purchase of immovable properties. He invited my attention to agreement to sell on record filed by him and submitted that nature of transactions are totally different and not as contended by the complainant.

Per contra, learned counsel for the respondent-State as well as complainant opposed the petition for grant of anticipatory bail to the petitioner and prayed for dismissal of the petition.

Having heard learned counsel for the rival parties at length, I do not think it necessary as contended by learned counsel for both the parties to go on recording facts in detail, the nature of offence and documents etc. Suffice to say, I think following portion from the FIR lodged by the complainant-Loveleen Kaur would be relevant. Hence, I quote the following portion from the FIR which reads thus:-

> "In July 2015, Gurbhag Singh told my maternal uncle about prime piece of agricultural land sitauted near the road in Village Tagra, Hakimpur, Tehsil Kalka, District Panchkula, Haryana and following within the territorial limits of the Municipal Corporation, Panchkula which is available for sale. Gurbhag Singh further said that he is also going to purchase a part of this aforesaid land. Regarding this, he arranged a meeting between my maternal uncle and owner of the property namely Rattan s/o Sh. Godh Ram resident of Village Tagra, Hasunwa and also showed him the said land. At that time, the Nephew of Rattan was also present on the spot. My maternal uncle told me regarding this land and on 28.07.2015, on the asking of Gurbhag Singh, two separate agreements to sell were executed with the land owners in favour of myself

and brother of Gurbhag Singh namely Gurwinder Singh for the two pieces of land measuring 1 Bigha 8 Biswas and 1 Bigha 17 Biswas of property respectively bearing Khasra No.201/105, situated in Village Tagra, Hakimpur Hb No.150 Tehsil Kalka, District Panchkula. I alongwith my maternal uncle had carried the entire amount of earnest money in cash to Kalka for the agreement to sell. But on the spot, Gurbhag Singh told us that the cash with him was falling short. Where upon Rattan suggested that Gurbhag Singh should take the amount of Rs.14,00,000/- cash from Loveleen Kaur and issue a cheque in lieu of this amount in favour of Rattan, who would encash the same. In response to this suggestion, Gurbhag also said that since the amount is lying in his bank account and the abovementioned cheque will be cleared on his presentation. Believing the words of the aforesaid accused persons as to and in good faith, I paid paid an amount of Rs.14,00,000/- cash to Gurbhag Singh who in turn issued a cheque No.4175546 for Rs.14,00,000/- drawn in HDFC Bank, Kalka account No.01881000021426 in favour of Rattan and in this way, Rattan has received a cash amount of Rs.10,00,000/- from us and made us to give an amount of Rs.14,00,000/- to Gurbhag. Gurbhag entered cheque in lieu of cash in the agreement to sell in our name. Hence on that day, we gave an amount of Rs.24,00,000/- as earnest money to Rattan Singh and the details of the aforesaid cheque were duly mentioned in the agreement to sell. After that, Rattan Singh started demanding an amount of Rs.14,00,000/- from us, on the pretext that the cheque mentioned in the agreement to sell was bounced. And when we confronted him by saying that it was on his asking that we had given cash to accused Gurbhag who then issued cheque and which was again at his behest entered in the agreement to sell but he denied from his statement and started threatening us to cancel the agreement to sell due to non-clearance of cheque. When we demanded the amount of the cheque from Gurbhag Singh, then he started dilly dallying to pay the amount. According to the agreement to sell, the last date of registration was dated 30.11.2015. Hence, under pressure because of the threats given by Rattan, we had to make payment of an amount of Rs.14,00,000/- in cash to Rattan in presence of his Nephew Naib Singh resident of Bunga. When we requested Rattan to register the agreement to sell in favour of us after receiving the remaining amount from us, but Rattan Singh took an amount of Rs.14,00,000/- in cash from us and returned the cheque dated 30.11.2015 issued by Gurbhag Singh and the date of registration of agreement to sell was extended intentionally to 30.12.2015 and also told us that he would get the agreement to sell registered in our name after paying the pending amount to Gurbhag. And when we asked him to mention the amount of Rs.14,00,000/- given in cash by us in the agreement to sell then he refused to oblige but said that we should keep the cheque issued by Gurbhag and that he would ensure that Gurbhag returns the money given by us in lieu of the said cheque. In this way, Rattan Singh deceived us with his clever talk and misrepersentation, but later on, we came to know that Gurbhag Singh, Ram Pal and Rattan in collusion with each other cheated us for extracting amount from us. They had planted/fabricated the sale of agricultural land measuring 1 Bigha 8 Biswas and 1 Bigha 17 Biswas bearing Khasra No.201/105 situated at Village Tagra, Hakimpur from Ram Pal on 30.11.2015 which had actually been sold much before on 28.07.2015 to some other persons. They concealed this fact and on 30.11.2015, Rattan Singh in presence of his Nephew Naib Singh got the amount of Rs.14,00,000/- in cash from us on the ground that cheque for an amount of Rs.14,00,000/- issued by Gurbhag Singh has been dishonoured and further extended the date of registration to 30.12.2015. Actually he had fraudulent intention right from the beginning and he never wanted to register the agreement to sell in my favour. His only intention was to defraud us by extracting money which is established from the fact that just two days later on 02.12.2015, which was before the expiry of the date of our agreement to sell, six agreements to sell of the abovementioned agricultural land had been planted and the sale was concluded by registration of land on 15.01.2016 in favour of some other persons."

From the careful reading of the above statement in the FIR, it is clear after segregation of the disputed facts that the petitioner-Rattan Lal had received an amount of ₹14,00,000/- by cheque in his accounts apart from other amounts. The above statements in the FIR also show that, though, he was owner of the property and had accepted huge amounts from the purchaser, he refused sale-deed and also refused to return money. FIR shows that on the contrary, he had sold the suit property to some other persons. Thus, it is clear from the above and admittedly since petitioner-Rattan Lal had received an amount of ₹14,00,000/- and other amounts, he cannot say that he neither made sale-deed nor received the money. There is a clear intention of cheating on his part. The theory projected by the learned counsel for the petitioner about nature of transactions by Patwari through complainant-Loveleen Kaur and other documents produced before me, cannot be considered at this stage, as these are matters of defence, which petitioner-Rattan Lal is canvassing. It is not possible to consider the evidences at this stage. At any rate, since the petitioner had cheated and money has been deposited in his accounts which he had no intention to pay back, a strong prima-facie case is made out against him. In the result, I am not inclined to confirm the *ad interim* anticipatory bail order dated 19.08.2016 made by this Court. Hence, the petition for grant of anticipatory bail to the petitioner deserves to be dismissed.

In that view of the matter, CRM-M-28517 of 2016 is dismissed. Interim order dated 19.08.2016 granting *ad interim* anticipatory bail to the petitioner stands vacated.

(A.B. CHAUDHARI)
JUDGE

July 10, 2017
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No