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

CRM-M-3381 of 2017

Date of decision: 13.02.2017

Ajesh Saini

... Petitioner

VS.

State of Haryana & Anr.

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

* * *

Present : Mr. D. S. Bali, Senior Advocate with
Mr. Rahul Sharma, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. A.G. Haryana.

Mr. K. S. Nalwa, Advocate for
respondent No.2.

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DEEPAK SIBAL, J.(ORAL)

Through the present petition filed under Section 438 Cr.P.C., the petitioner prays for the grant of anticipatory bail in FIR No. 630, dated 29.08.2015, registered under Sections 406, 420, 120-B and 506 IPC at Police Station Sadar Karnal, District Karnal.

As per the FIR, the complainant entered into an agreement with the accused for purchasing two and half acres of agricultural land at Rs.70,00,000/- per acre. In pursuance to this agreement part payment of Rs.1,44,00,000/- was paid by the complainant. As agreed, the sale deed was to be got registered on 29.08.2012 but before that date the land in question was sold by the accused to one Jai Bhagwan Sharma. On the appointed date, the accused did not attend the office of the Registrar for getting the sale deed registered in favour of the complainant. When the complainant went to

the house of the petitioner for either getting the sale deed registered in his name or for return of his money, he was pushed out and threatened that the petitioner knew the Chief Minister and if the complainant did not get out of the house, he would be shot. Later, after negotiations, the complainant gave the balance amount of Rs.31.50,000/- to one Narinder Chaudhary, a relative of the petitioner and Hitesh Sani-the younger brother of the petitioner. That money was then handed over to the petitioner, counted by him and then handed over to his mother but even after that the sale deed was not got registered as several excuses were made to avoid the same.

Learned counsel for the petitioner submits that the dispute between the parties is of civil nature; that no custodial interrogation of the petitioner is required; he is willing to join investigation as and when required by the prosecution; in fact the complainant had played fraud with the petitioner by referring to and producing a forged compromise deed between the parties in the civil litigation between them and that the petitioner was at the most an attesting witness to the agreements.

Learned State counsel and learned counsel appearing on behalf of the complainant have opposed the grant of anticipatory bail to the petitioner on the ground that the owner of the land in dispute-Pushpa Devi was a senior citizen and who was merely a puppet in the hands of the petitioner, who was the actual beneficiary of the above transactions. The money was handed over to him and he had accepted the same. It was the petitioner who was the main player in the entire game played by the accused with the complainant. The mala fides on the part of the petitioner are clear from the fact that he was a witness to the agreement entered into between the complainant and his mother and after having accepted Rs.1,44,00,000/-

from the complainant, he was also a witness to another agreement entered into between his mother and Jai Bhagwan Sharma for the same land. The second agreement with Jai Bhagwan Sharma contained no recital with regard to the agreement between the complainant and the petitioner's mother. The petitioner further played an active role in getting the suit for specific performance filed by the complainant withdrawn on the strength of a compromise having arrived at between the parties in pursuance to which compromise, after himself accepting Rs.31.50,000/- which was the balance amount payable by the complainant, the petitioner persuaded his mother to back out from the compromise.

The allegations against the petitioner are serious. He is alleged to have played the main role in cheating the complainant for a huge sum of about Rs.1,75,00,000/-. Though, the agreement between the parties was signed by the petitioner's mother and the complainant, it is alleged that she being a senior citizen was nothing but a puppet in the hands of the petitioner who was the de-facto beneficiary. It is further alleged that in pursuance to the agreement with the complainant the petitioner initially accepted an amount of Rs.1,44,00,000/- on behalf of his mother but persuaded his mother not to get the sale deed registered. Rather, he orchestrated another agreement for the same land with Jai Bhagwan Sharma. In the second agreement there was no recital of the first agreement entered into between the complainant. The petitioner allegedly being a signatory to both the agreements as a witness cannot deny knowledge of either of the agreements.

In the afore referred civil litigation between the parties, on 02.07.2015, the parties withdrew the civil suits allegedly having compromised the matter. This is reflected in the statement made by the

complainant before the civil Court withdrawing his civil suit as also by the counsel for the mother of the petitioner. It is alleged that as per the compromise, Rs.31.50,000/- were physically handed over to the petitioner. However, such compromise was also not honoured as a civil suit has now been filed against the complainant challenging therein inter alia the compromise stating to be a forged document.

A huge amount of money to the tune of Rs.1,75,00,000/- is said to have passed hands. A major chunk of such payment is in cash which needs to be recovered and traced. The mother of the petitioner is dead. The exact role of the petitioner, being the main beneficiary, needs to be established. The signatures of the petitioner on both the agreements entered into with the complainant and Jai Bhagwan Sharma also needs to be investigated to the effect whether the petitioner had signed them. It also needs to be investigated that if the petitioner was aware of the agreement entered into with the complainant as to why did he appended his signatures to the second agreement with regard to the same land with Jai Bhagwan Sharma after having knowledge of the fact that over a crore of rupees had already been paid and accepted in pursuance to the first agreement and that the same had not been honoured. Whether the compromise in pursuance to which the petitioner is alleged to have physically accepted Rs.31.50,000/- was in fact arrived at between the parties also needs to be investigated as after having allegedly accepting the aforesaid amount the petitioner is alleged to have backed out of the same.

In my opinion, for the reasons stated above, custodial interrogation of the petitioner is warranted and that being so, the present petition is dismissed.

Nothing observed herein above shall be considered to be an expression of opinion by this court on the merits of the case.

February 13, 2017
rimpal

(Deepak Sibal)
Judge

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>