

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.202

CRM-M No.35768 of 2016
Date of decision: 24.01.2017

Beant Singh and another

....Petitioners

versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. A.P. Kaushal, Advocate
for the petitioners.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. ADS Sukhija, Advocate
for respondent No.3.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C.
for grant of anticipatory bail to the petitioners in FIR No.165 dated
27.08.2016, under Sections 406/420 IPC, registered at Police Station
Kotwali Patiala, District Patiala.

In the afore-referred FIR there are three accused namely
petitioner No.1- Beant Singh, petitioner No.2-Sahib Singh and Baljinder
Singh, who is the son of petitioner No.1 and brother of petitioner No.2.

Learned counsel for respondent No.3 produced the order
dated 19.12.2016 passed in **CRM-M No.38602 of 2016-'Baljinder Singh
@ *Bakhu versus State of Punjab and others*'**, rejecting the anticipatory
bail of co-accused Baljinder Singh. The same reads as under:-

“This is a petition under Section 438 Cr.P.C., preferred by Baljinder Singh @ Bakhu for grant of pre-arrest bail, feeling apprehension of his arrest in case FIR No.165 dated August 27, 2016 under Sections 406, 420 IPC, registered at Police Station, Kotwali, Patiala.

2. The FIR in question was registered on the basis of complaint made by respondent No.3 – Dr. Ashok Joshi to the effect that as per Jambandi for the year 2013-14, Khewat No.48/47 Khatoni No.72 and 73, bearing Khasra No.13//6 (9-14), 13//14 (4-10), 13//5 (4-18), Kitte 3, land measuring 19 kanal 2 marla and Khewat No.74/73 Khatoni No.128 bearing Khasra No.14//11/3 (2-0) total land measuring 21 kanal 2 marla out of which, ½ share Beant Singh i.e. 10 kanal 11 marla comprised in Khewat No.179/182 Khatoni No.291 and 300 bearing Khasra No.8//19 (8-0), 14/13 (8-0), 14//14 (8-0), 14//19 (8-0), 14/19 min (3-19), 14//20 (8-0), 14//21 (7-7), 14//22 (4-0), 14//22 min (1-7), 139/5 (0-2), 14//9 (8-0), 14//20 (8-0), 14//18/2 min (1-17), 14//19 min (4-0), 14//22 min (2-0), 8//1/2 (3-2), 8//2/1 (3-2), 8//9 (8-13), 14//2 (7-7), 14//22 (4-0), 14//2 min (2-0), 8//1/2 (3-2), 8//9 (7-12), 8//10 (8-0), 8//11 (7-12), 9//12 (8-0), 8//18/2 min (3-15), 8//20 (8-0), 14//4 (8-0), 14//7 (8-0), 14//23/1 (5-3), 8//17(8-0), 14//3 (8-0), 14//8 (8-0), 9//24/2 (2-12), 14//2 (8-0), 8//18/2 min (7-11), 8//18/1 (0-9), kitte 33, land measuring 185 kanal 11 marla out of which 330/4948 share means 12 kanal 7 ½ marla (under the ownership of Baljinder Singh and Sahib Singh) and khewat No.185/188 Khatoni No.310 and 313 bearing khasra No.9//21 (2-19), 13//15 (7-19); 14//17(8-0), 14//24 (4-0), 14//1 (8-0), 14//10 (8-0), 14//24 min (3-10), kitte 7 land measuring 42 kanal 8 marla out of which 562/1696 share means 7 kanal ½ marla is under the ownership of Baljinder Singh and Sahib Singh and khewat Khata

No.264/270 share Khatoni No.477 and 79 bearing khasra No.9//22(7-2), 9//24/1 (5-8) Kite 3 land measuring 20 kanal 10 marla out of which 10/82 share means 4 kanal 1 marla and khewat No.291/305, Khatoni No.520, bearing khasra No.14//1/1 (5-8) out of which 1/3 share means 1 kanal 16 marla under the ownership of Baljinder Singh and Sahib Singh means total land is approx. 42 kanal 15 ½ marla. Petitioner alongwith co-accused entered into an agreement to sell land with Dr. Ashok Joshi (respondent No.3) at the rate of ₹ 28,50,000/- per acre and received ₹ 35 lac as earnest money on February 11, 2016. Sale deed was to be registered on or before May 15, 2016. Thereafter, an amount of ₹ 5 lac was also assigned to be paid to them. On February 20, 2016, when complainant went to their house alongwith money, then the accused said that they have changed their mind for the sale of land and said, they will return the earnest money of ₹ 35 lac alongwith compensation/interest. Petitioner – Baljinder Singh issued a cheque bearing No.092864 dated March 2, 2016 for an amount of ₹ 40 lac drawn on HDFC Bank to the complainant. The said cheque on presentation in the concerned Bank for encashment was dishonoured as the signatures on the cheque did not tally with the signatures available in the bank record. However, the amount was not paid to the complainant.

3. Learned counsel for the petitioner has contended that petitioner is innocent and has been falsely dragged in this case. Petitioner is ready to execute the sale deed. Even petitioner recorded his presence before the office of Sub Registrar, Dudhan Sadhan, on May 16, 2016 as it was Sunday on May 15, 2016. Petitioner shall abide by all the conditions imposed upon him in case he is granted the concession

of bail.

4. Per-contra, learned counsel for the respondents have argued that petitioner cheated the complainant with the connivance of other coaccused/ property dealers. Petitioner has committed a serious offence of cheating and grabbing the earnest money. Accordingly, the bail petition filed by the petitioner may be dismissed.

5. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and perused the record.

6. Admittedly, an agreement to sell was executed and at that time, earnest money was received. As per the allegations, petitioner failed to execute the sale deed and the cheque issued by the petitioner to complainant got dishonoured. Matter was investigated by the police. During the course of inquiry, petitioner – Baljinder Singh joined the inquiry on April 16, 2016 and agreed in writing that he will return the money as and when his father Beant Singh and brother Sahib Singh return from Madhya Pradesh on May 1, 2016. But lateron, instead of joining the inquiry, petitioner alongwith his father and brother preferred a Criminal Miscellaneous No.M-20714 of 2016 which is pending adjudication for the month of February 2017. During the course of inquiry, it has come to light that petitioner, Beant Singh and Sahib Singh in connivance with property dealers Happy and Vikram have cheated the complainant for ₹ 35 lac by taking him into confidence and have committed offence punishable under Sections 406, 420 IPC. Moreover, as per the report of SSP, Patiala, cases under different sections are already registered against the accused in various police stations.

7. Keeping in view the fact that there are direct and specific allegations of cheating against the

petitioner, and the matter is of serious nature, this court is of the considered view that no case for exercising discretionary powers under Section 438 Cr.P.C. is made out.

8. Dismissed.”

It is agreed that the allegations against the petitioners and Baljinder Singh, whose petition for anticipatory bail has been dismissed by the afore-referred order are same.

In view of the above-quoted order passed in the case of a co-accused who is attributed an identical role as the petitioner, with which I concur, the present petition is also dismissed.

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

(DEEPAK SIBAL)
JUDGE

January 24, 2017

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(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No