

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-38834 of 2016 (O&M)
Date of Decision: 05.04.2017

Rajinder Singh

--Petitioner

Versus

State of Punjab & another

--Respondents

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

Present:- Mr. G.P.S. Pathania, Advocate for the petitioner.

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

Mr. Raj Kaushik, Advocate for the
complainant/respondent no.2.

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.0022 dated 31.8.2016 under sections 420, 34 I.P.C, registered at Police Station, Narot Jaimal Singh, District Pathankot.

On 27.10.2016, while issuing notice of motion, the following order was passed by this Court:-

“Learned counsel argues that for a transaction made in the year 2010 the FIR has been lodged after six years.

Notice of motion.

On the asking of the Court, Ms. Amarjeet Kaur Khurana, Addl.A.G., Punjab accepts notice on behalf of the respondent.

Learned counsel for the petitioner undertakes to supply a copy of the paper book to the learned opposite counsel during the course of the day.

Adjourned to 31.01.2017.

In the meantime, in the event of arrest of the petitioner he shall be released on interim bail by the investigating officer subject to the conditions envisaged under

Section 438(2) Cr.P.C. However, he shall join investigation as and when his presence is required by the investigating officer.”

Learned State counsel upon instructions from ASI Kewal Singh would apprise the Court that the petitioner has since joined investigation but the amount in question which is a very heavy amount and in excess of Rs.50 lacs is yet to be recovered.

Adopting the same line of argument even counsel for the complainant would vehemently oppose the petition.

In the considered view of this Court the prayer made in the petition merits acceptance.

The FIR came to be registered on the complaint of Asha Rani alleging that she along with her son had entered into an agreement with the petitioner on 21.10.2010 for purchase of a stone crusher for a total sale consideration amount of Rs.1.5 crores. It was alleged that Rs.43.13 lacs had been advanced in cash and two cheques bearing same date i.e. 21.10.2010 for amounts of Rs.3.38 lacs and Rs.4.49 lacs respectively were also furnished.

As per counsel appearing for the complainant the target date for execution of the sale deed was 8.1.2011. Version of the complainant is that after entering into the agreement, the petitioner had put forth a claim that there was yet another purchaser willing to pay a higher price and an offer had been put forth that if the crusher was to be sold to such purchaser, then, even the gains accruing therefrom would be shared. Complainant's version is that yet another amount of Rs.7, 87,000/- was advanced subsequently in point of time and in cash.

It is strange that pertaining to the alleged transaction entered into on 21.10.2010 and for which the target date had been fixed for 8.1.2011

and on account of a default on the part of the petitioner, the complainant chose to remain quiet for a period of 6 long years.

It stands conceded that till date no civil proceedings have been initiated by the complainant.

This Court even finds it difficult to accept the allegation made by the complainant that inspite of the petitioner having defaulted in pursuance to the initial heavy amount of Rs.51 lacs approximately having been furnished, she had further given a sum of Rs.7 lacs. The consideration for advancing such further amount of cash is not forth coming.

On a specific query having been put to learned State counsel as regards any inquiry/investigation having been done as regards the source of funds with the complainant so as to advance such heavy amounts of cash i.e. in excess of Rs.50 lacs, the response is in the negative. It is submitted that such aspect has not even been gone into by the I.O.

In the totality of the circumstances and in view of the fact that the petitioner has joined investigation, he is held entitled to the concession of pre-arrest bail. Accordingly, the present petition is allowed. The order dated 27.10.2016, passed by this Court, is made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

05.04.2017

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Whether speaking/reasoned: Yes
Whether Reportable: No