

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

**Criminal Misc. No.M-38551 of 2017 (O&M)  
Date of Decision: October 24, 2017**

Rohtash Singh

**.....PETITIONER(s).**

**VERSUS**

State of Haryana and others.

**....RESPONDENT(s).**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Amit Choudhary, Advocate  
for the petitioner (s).

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**SURINDER GUPTA, J.**

Heard.

This is application filed under Section 439(2) Code of Criminal Procedure seeking cancellation of bail allowed to respondents No.2 and 3 by Additional Sessions Judge, Gurugram vide order dated 15.09.2017 in case FIR No.598 dated 31.12.2015 registered at Police Station Badshahpur, Gurugram for the offences punishable under Sections 420, 467, 468 read with Section 120-B of Indian Penal Code.

The dispute between the parties pertains to the agreement to sell dated 29.07.2006 (Annexure P-11).

Learned counsel for the petitioner submits that father of petitioner vide agreement dated 29.07.2006 (Annexure P-2) in favour of one Shivraj Singh, had agreed to sell his land at village Bahadurpur, District Gurugram @ ₹2,61,00,000/- per acre. Agreement (Annexure P-11) of same date was forged by respondents No.2 and 3 in favour of M/s Vikram

Electric Equipment Pvt. Ltd. The petitioner after the death of his father had

appeared before the Sub Registrar on stipulated date for execution of the sale deed but none on behalf of purchaser turned up. Thereafter, he received notice (Annexure P-4) on behalf of M/s Vikram Electric Equipment Pvt. Ltd calling upon him to appear before the Sub Registrar for execution of the sale deed on 28.02.2017. In response to the notice, petitioner appeared before the Sub Registrar on the stipulated date and also replied to the notice. Balbir Singh-father of petitioner had in fact received earnest money of ₹1 lakh in cash and cheques of ₹5 lakh and ₹1,58,51,156/-. In the agreement Annexure P-11 forged by respondents No.2 and 3, it was shown that payment of ₹2,64,51,156/- has been made. Litigation between the parties seeking agreement as null and void and for recovery of the amount paid to the father of petitioner is pending before the civil Court. Learned Additional Sessions Judge, Gurugram allowed the anticipatory bail to respondents No.2 and 3 ignoring the fact that agreement propounded by respondents No.2 and 3 is alleged to be forged and the original agreement as per statement of Suresh Kumar co-accused, is in possession of Dharampal-respondent No.2, who is not producing the same. This agreement is a vital piece of evidence and has been wrongly withheld by respondents No.2 and 3 to hamper the proper investigation of the case, as such, impugned order allowing bail to respondents No.2 and 3 calls for its recall.

On giving a careful thought to the submissions of learned counsel for the petitioner and perusal of paper-book, I find no merits therein. So far as the possession of original agreement with respondent No.2-Dharampal is concerned, this agreement is a subject matter of the civil suit filed by him for recovery of the earnest money. This point was also

raised at the time of grant of bail to co-accused Suresh Kumar in Criminal Misc. No.M-21756 of 2017 and was discarded with the observations as follows:-

“The plaintiff, who has filed the civil suit based on agreement dated 29.07.2006 is alleging the loss of document and is seeking permission to prove the same by way of secondary evidence. In such eventuality, he cannot be expected to hand over original agreement to police. It is for the complainant/police to collect proof of allegations levelled by the complainant.”

The plea of the petitioner, that the agreement dated 29.07.2006 is a fake document, is again a matter of evidence. The FIR was got registered on 31.12.2015 i.e. after a period of more than nine years of the agreement. Civil litigation between the parties is pending. The investigating officer of this case is required to look into the fact that if the agreement is fake, what prompted the complainant to appear before the Sub-Registrar for execution of sale deed in response to notice (Annexure P-4) of M/s Vikram Electric Equipment Pvt. Ltd., wherein execution of agreement dated 29.07.2006 is admitted. Petitioner is only disputing the payment of earnest money mentioned therein, which is subject matter of civil suit.

Keeping in view the above facts, I find no reason to recall the impugned order passed by learned Additional Sessions Judge, Gurugram.

This petition has no merits. Dismissed.

**October 24, 2017**  
Sachin M.

**( SURINDER GUPTA )**  
**JUDGE**

***Whether speaking/reasoned:***  
***Whether Reportable:***

***Yes/No***  
***Yes/No***