

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

**CRM-M-4565-2017 (O&M)
Date of decision :27.09.2017**

Shailender @ Kalu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Mr. Parvinder Singh, Advocate
for the complainant.

H.S. MADAAN, J.

CRM-30977-2017

Allowed as prayed for, subject to all just exceptions.

CRM-M-4565-2017

This application for pre-arrest bail has been field by Shailender
@ Kalu an accused in FIR No.343 dated 03.08.2016 for offence under
Sections 420, 406, 506 IPC registered with Police Station Bhupani

Faridabad.

Briefly stated facts of the case as per prosecution story are that complainant – Amit Kumar Tanwar son of Shri. Satbir Singh Tanwar resident of 2, Dera Mor, Fatehpur Beri, Chatarpur, Delhi had addressed a written complaint to Superintendent of Police, Faridabad alleging therein that on 06.07.2012 two property dealers Azad Bainsla son of Late Ramesh Ji resident of Sector 31, Faridabad and Narinder son of Shyam Singh resident of Badarpur, Delhi made him purchase two kanals three marlas of land from Shailender son of Shayam Singh resident of Badarpur, New Nelhi; that plot was comprised in M-13 Killa No.23 (411), both the property dealers had received commission of ₹6,000/- each from him without after registration of sale deed; that he had taken possession of plot and constructed boundary wall and installed gate on the land; that on 23.05.2016 when he went to see that plot he found that boundary wall and gate were missing; that a person was raising boundary wall there, who upon his asking told that the land belonged to him as he had purchased it from Shailender through Narender and Azad Singh. Thereafter he tried to contact Shailender via phone but his phone was switch off. Thereafter he tried to contact Shailender at his house upon where he came to know that he had left home for last several days; that in the evening of 24.05.2016 he went back to his plot and met Narender alias Sonu and Azad Singh who threatened to kill him and get him involved in false police cases. He sought taking of action against such persons. Formal FIR was registered. Apprehending his arrest in this case, the petitioner has approached this Court for grant of pre-arrest

bail, notice of which was given to the State and complainant put in appearance through counsel.

I have heard learned counsel for the parties, besides, going through the record.

As far as title of the complainant to the land which was subject matter of sale deed in favour of complainant is concerned that is not disputed. Rather the complainant comes out to be co-sharer in the joint *Khatta* out of which he had sold land. A perusal of the sale deed in favour of the complainant goes to show that the petitioner had sold two Kanals three Marlas of land out of the share to the complainant. The boundaries of the area so sold are not given in the sale deed, nevertheless as per own case of the complainant in the FIR the petitioner – accused had been put him in possession of piece of land around which he had constructed a boundary wall and installed a gate that means title was validly transferred to the complainant and possession was also delivered to him. If as per allegations in the FIR, he has sold that area to some other persons who had demolished the boundary wall raised by the complainant the cause of action of complainant should be against the other persons, since as it comes out from the record that the petitioner – accused was having more area belonging to him and he could make allocations therefrom to other persons also. It is not case of complainant that area sold to him had been sold by the petitioner – accused to some other persons earlier. The dispute between the parties appeared to be of civil type and the complainant is trying to give colour of a criminal offence to the same. The petitioner has since joined the

investigation when he was granted interim bail. His custodial interrogation is not found to be necessary, in that way the interim bail granted to the petitioner vide order dated 14.02.2017 is made absolute subject to fulfilment of conditions envisaged under Section 438 (2) Cr.P.C..

The petition stands allowed.

27.09.2017
Gaurav Sorot

(H.S. MADAAN)
JUDGE

1. Whether reportable? **No / Yes**
2. Whether speaking / reasoned? **No / Yes**