

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

**CRM No.M-4787 of 2017 (O&M)
Date of Decision: 12.05.2017**

Vijay Kumar

... Petitioner

Versus

State of Haryana

... Respondent

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

Present:- Mr. S.K. Verma, Advocate for the petitioner.

Mr. C.S. Bakshi, Additional Advocate General, Haryana.

...

TEJINDER SINGH DHINDSA, J.

The instant petition has been filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.891, dated 06.12.2015, under Sections 420/465/466/467/468/471/406/120-B IPC, registered at Police Station Sirsa City, District Sirsa.

Briefly, it may be noticed that FIR in question came to be registered on the statement of Sadhu Ram son of Raju Ram. Complainant asserted that he had purchased a plot ad measuring 210 Sq. Yards situated in Sirsa for a total sale consideration amount of Rs.3.78 lakhs from the present petitioner and Rs.1 lakh was made over as earnest money on 11.02.2011. Remaining amount of Rs.2.70 lakhs was paid to the petitioner in the presence of Jasbir Sarpanch, Om Parkash and Kanshi Ram and possession of the plot was delivered. Complainant thereafter is stated to have effected certain constructions. As per allegations, the petitioner has with an oblique motive moved an application against the complainant as regards having

taken over illegal possession of the plot and having effected unauthorized construction. Allegations have then been raised that the complainant upon making inquiries came to know that the plot in question was originally owned by one Dharampal son of Musaddi Lal and sale deed had been got executed fraudulently by the present petitioner in his favour in the year 2008 by making some unknown person impersonate as the original owner i.e. Dharampal. It is against such brief allegations that the FIR has come to be registered.

Learned counsel appearing for the petitioner would contend that the petitioner has already joined investigation and as such against the backdrop of allegations, he is entitled to the concession of anticipatory bail. Further submitted that till date no proceedings have been initiated at the hands of Dharampal or for that matter, his legal heirs as regards cancellation of the sale deed in respect of the plot in question in favour of the petitioner. It is argued that the complainant under such circumstances would have no *locus standi* to raise any allegations pertaining to the sale deed executed in the year 2008. Counsel has also impressed upon the Court that it is a case of false implication. Petitioner had never entered into any agreement to sell as alleged by the complainant. He also questions the veracity of the complainant's version by asserting that on the strength of such alleged agreement to sell, till date, no suit for specific performance has been instituted.

Having heard counsel for the petitioner at length as also having perused the police file made available by learned State counsel, this Court is of the considered view that the petitioner is not entitled to the concession of pre-arrest bail.

It is the pleaded case of the petitioner himself as per averments made in para 7 of the petition that he became owner in possession of the plot in question vide sale deed No.5682 dated 11.11.2008. It has also been averred that a mutation bearing No.7539 was also sanctioned in pursuance to the sale deed dated 11.11.2008. Undisputedly, such sale deed was between the present petitioner/accused and the original owner, namely, Dharampal.

There is a death certificate which forms part of the police file which clearly reflects that Dharampal son of Musaddi Lal had died on 08.08.2003 i.e. five years prior to registration of the sale deed in favour of the petitioner.

There is no satisfactory response coming from the counsel appearing for the petitioner in relation to such state of affairs and a sale deed having been executed at a point of time when the original owner was no more. Counsel appearing for the petitioner would attempt to submit that the petitioner also has been cheated in the matter and at the hands of a local property dealer.

Learned State counsel upon instructions from ASI Naresh Kumar would also apprise the Court that even though the petitioner has joined investigation but he is not cooperating in the matter and till date the Investigating Agency has not managed to get any clue with regard to the person who had impersonated for Dharampal at the stage of execution of the sale deed dated 11.11.2008 in favour of the present petitioner.

The allegation against the petitioner as also gravity of the offence in this matter is serious. The matter would require a deep and thorough probe and which may well warrant even custodial interrogation of

the petitioner.

For the reasons recorded above, the prayer made in the present petition is declined.

Petition dismissed.

12.05.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |