

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-8731 of 2017

Date of Decision: 14.09.2017

Davinder Sharma

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.P. Chahar, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. AG, Haryana.

Mr. Rajiv Sharma, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.783 dated 07.11.2016 registered for offences punishable under Sections 419, 420, 467, 468, 471 read with Section 120-B of Indian Penal Code (for short, "IPC") at Police Station Jagadhri City, District Yamunanagar.

Heard.

Learned counsel for the petitioner submits that the petitioner despite being allowed interim bail could not arrange money payable to complainant, as such, no amicable solution could be found in this case and seeks decision of this petition on merit.

Facts of the case find mentioned in first para of order dated 04.02.2017 passed by Additional Sessions Judge, Yamunanagar, which are reproduced as follows:-

in the business of property dealing, who met the complainant and persuaded her to purchase plot of 308 square yards in Jyoti Nagar, Tejli, owned by Omkali, wife of Ranbir Singh, assuring her that the said plot is clear and he owns every responsibility regarding the said plot and that he has purchased the said plot. Complainant was also assured that the sale deed would be executed directly in her favour from the original owner. The deal was finalized and sale deed was executed on 08.06.2015 and entire sale consideration, i.e. ₹21,67,800/-, was paid. All the accused, i.e. Davinder Sharma, Geeta, wife of Pankaj Kumar and Galib Hassan, signed the said sale deed. After few days, Incharge, police post Arjun Nagar came to the house of complainant and informed her that she has been cheated and wrong sale deed was registered in her favour. It was also alleged that previously also, the present petitioner committed fraud with Gurvinder Kaur and that the accused in criminal conspiracy with each other, by way of impersonation, executed sale deed in her favour. On these allegations, a case under Sections 419, 420, 467, 468, 471, 120-B of IPC was registered. The present petitioner, who was in custody in some other case, was interrogated after taking permission from the court, who upon interrogation, suffered disclosure statement disclosing therein that he has spent the entire money. Geeta, wife of Pankaj was also arrested, who impersonated Omkali. Co-accused Galib Hassan was also arrested.”

Learned counsel for the petitioner has argued that the petitioner is in custody for the last about 7/8 months and is facing trial, conclusion of which will take considerably long time, as such, he may be allowed benefit of regular bail at this stage.

Learned State counsel and learned counsel for complainant have opposed the bail application on the ground that petitioner has not sold one plot to complainant but he had also sold adjoining plots and on FIR being registered against him in that case he returned the entire sale consideration to purchase of that plot. In this case he had received ₹21,67,800/- as sale consideration and got sale deed executed from Geeta, who impersonated as Omkali. In the event of bail being allowed to petitioner he will tamper with prosecution evidence and prevail upon its witnesses.

It is a case where petitioner is not disputing his liability. Vide sale deed 08.06.2015, he had sold plot of one Omkali to complainant and received ₹21,67,800/- from him. He had also made one Geeta to impersonate as Omkali. During pendency of petition, tone of petitioner was conciliatory and on the submission of learned counsel for the petitioner that if interim bail is allowed, the petitioner will come up with some amicable solution, he was allowed interim bail for two weeks but he has not come up with any offer to settle the dispute. Complainant has lost his money and has also not got the plot sold to him vide sale deed dated 08.06.2015. The act of cheating of complainant and another person, whom the petitioner has returned the sale consideration, appears to be a case of well planned conspiracy.

Keeping in view the conduct of petitioner, who has cheated an

innocent buyer of a hefty amount and that if released on bail, he may tamper with prosecution evidence and prevail upon its witnesses, I find no reason to extend the benefit of regular bail to petitioner at this stage. It is, however, made clear that nothing observed herein shall be taken as expression of opinion on merit of the case.

Dismissed.

September 14, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No