

Sr. No.204

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

CRM No. M-27325 of 2017 (O&M)

Date of Decision: 15.01.2018

Parminder Kaur

... Petitioner

Versus

State of Punjab

... Respondent

CRM No. M-28075 of 2017 (O&M)

Avtar Singh

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. Varinder Chhibbar, Advocate,
for the petitioner(s).

Ms. Jaspreet Kaur, AAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

This order shall dispose of CRM No.M-27325 of 2017 (Parminder Kaur Vs. State of Punjab) and CRM No.M-28075 of 2017 (Avtar Singh Vs. State of Punjab) as both these petitions have been preferred under Section 438 Cr.P.C. seeking concession of pre-arrest bail in case FIR No.234 dated 28.11.2016, under Sections 406, 420, 120 B of IPC, registered at Police station City Kharar, District S.A.S. Nagar.

Briefly it may be noticed that the FIR was registered on

the complaint of Pardeep Kumar against the petitioners herein, namely, Parminder Kaur and Avtar Singh who happen to be husband and wife, on the allegations that an agreement to sell dated 11.02.2015 had been executed for sale of land measuring 2½ Biswas under the ownership of Parminder Kaur and the total cost of the said land was fixed at Rs.2,80,000/- per Biswa. Earnest money of Rs.4,50,000/- had been entrusted to the accused in the presence of witnesses and the target date for execution of sale deed was fixed as 10.08.2015.

Precise accusation is that the earnest money has been usurped and with a criminal intent the land has been sold off to a third party, namely, Jasveer Kaur.

Even though counsel for the petitioners in these two connected petitions would vehemently contend that the dispute is essentially civil in nature and the complainant instead of pursuing his civil remedy of filing a suit for specific performance has resorted to lend a criminal flavour by registering the FIR yet this Court is not inclined to extend in favour of the petitioners the concession of pre arrest bail.

Such a view is being taken against the backdrop of the conduct of the petitioners.

In this regard, suffice it to notice that when CRM No.M-27325 of 2017 had come up for preliminary hearing counsel had submitted that he had instructions that petitioner was ready and willing to return the earnest money along with extra amount as settled between the parties.

Taking cognizance of such statement made by counsel, Court had issued notice of motion order and granted ad interim protection to the petitioners and to prove the bonafides directed a draft of Rs.50,000/- to be brought on the next date of hearing.

On the subsequent date of hearing i.e. 29.08.2017, the interim protection was extended on account of a demand draft of Rs.50,000/-having been furnished and handed over to the counsel for the complainant.

Thereafter during the course of resumed hearing i.e. 28.09.2017 counsel for the petitioners had sought time to bring the remaining amount of earnest money as per his initial statement recorded on 28.07.2017 i.e. the date of issuing notice of motion.

When the case was taken up on 08.12.2017, the requisite draft for the remaining earnest money was not brought. Accordingly, the matter was adjourned to today and the interim protection was ordered to be vacated.

Even today counsel for the petitioners expresses his inability to furnish the remaining amount of earnest money.

This Court is of the considered view that the petitioners had obtained ad interim protection as regards arrest by furnishing an undertaking of return of the entire earnest money and which obligation and undertaking has not been discharged.

An attempt has been made to hoodwink this Court.

Petitioners as such are not entitled to the concession of pre arrest bail.

Both the petitions are dismissed.

15.01.2018
vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No