IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-28888 of 2018
Date of Decision: 24.09.2018

Sandeep Sharma

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. R. Kartikeya, Advocate
for the petitioner.

Mr. Manish Bansal, DAAG, Haryana.

Mr. Rajender Singh Malik, Advocate
for the complainant.
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HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.141 dated 05.04.2018 under Sections 420 and 120-B IPC registered at Police Station Sadar, Thanesar, Kurukshetra.

The aforesaid FIR was got registered at the behest of the complainant Jai Bhagwan. As per the FIR, the land of the complainant was acquired by Haryana Urban Development Authority and he received compensation thereof in August/September, 2016. Accused Raj Karan, who was working in the Town and Country Planning Department, was aware of disbursement of such compensation to the complainant. The complainant confided to the said Raj Karan, who was known to him for the last 8-10 years and showed his eagerness to purchase some property out of the aforesaid awarded compensation. Raj Karan brought the complainant to his house bearing No.448-6, Mahabir Colony, Sonepat and told him that a residential house is being sold at Kurukshetra and he could purchase the same at very reasonable rate. When the complainant reached the house of Raj Karan, accused Vikram and Rishi Pal were already present there. Vikram told him that his brother Sandeep was owner of House No.53P, Sector 3, Urban Estate, Kurukshetra and he was in dire need of money, as he wanted to purchase a property in Gurugram. Raj Karan and Rishi Pal also supported him and they all represented that there was no encumbrance on the said property and the same is clear in all respects. It was agreed that on 06.08.2016, they would show him the house in the presence of Sandeep and deal would be materialized. On 06.08.2016, the complainant reached house No.53-P, Urban Estate, Sector 3, Kurukshetra with his friend Naresh son of Trilok, resident of Village Karani Mor, Panipat, where all the accused were present. The complainant and Naresh inspected the house and assessed that its value is not more than 1,10,00,000/-. They also examined document, vide which, Priyanka had sold the house for a sum of Rs.2,35,00,000/- to accused Sandeep on 26.06.2012. After negotiations, the deal was materialized for Rs.1,20,00,000/-. When the complainant enquired from the accused-petitioner as to why the property is being sold for a loss, the accused informed him that they had purchased the property for Rs.1,07,00,000/- and as the vendor Priyanka had herself purchased stamp papers, as she wanted to make adjustment of white money, higher sale consideration was mentioned in the sale deed dated 26.02.2012. He further informed that since the prices of immovable property have gone down, they decided to purchase property in Gurugram and as Sandeep was in dire need of money and therefore, he is ready to sell the property at Rs.1,20,00,000/-. Believing them, the deal was finalised at Rs.1,20,00,000/- Accordingly, agreement dated 19.08.2016 was executed between the petitioner and the complainant and cheque for Rs.1,00,00,000/- was given to the petitioner on 19.08.2016, which was duly encashed by him. At the time of execution of the sale agreement, complainant's son Deepak was also present there. Sandeep (petitioner) started talking with Deepak and befriended with him. On 05.09.2016, Sandeep had taken a loan of Rs.10,00,000/- from his son without his knowledge. On 06.11.2016, accused Raj Karan came to the house of the complainant and told him that the petitioner had called him to Kurukshetra. Thereupon, the complainant, Naresh and Ranbir reached Kurukshetra on 07.11.2016, where they met Sandeep and Vikram, who told him that now, they had received the money and could return his entire amount and get the agreement cancelled. The petitioner gave him a cheque of Rs.1,00,00,000/- on 16.11.2016, but the said cheque was dishonoured on account of 'insufficient funds'. In this manner, the aforesaid FIR was registered.

Learned counsel for the petitioner has argued that the petitioner required certain amount of money for his personal need and business purposes and therefore, he had requested the complainant for giving an amount of Rs.1 crore, as loan and as a security measure, the complainant called upon the petitioner to execute an agreement to sell for his property, which is a residential house situated at Kurukshetra. The agreement to sell was only a security measure, could be established from the fact that the petitioner had purchased his residential house for an amount of Rs.2.35 crores vide sale deed dated 26.09.2012, whereas the agreement to sell between the petitioner and the complainant records the sale consideration at Rs.1.20 crores. He has further argued that after having received the loan amount, the petitioner had duly returned Rs.1,02,50,000/-, which is more than the original loan amount in due course vide various receipts issued by the complainant from time to time. He further submits that the entire dispute leading to registration of the FIR against the petitioner is based on instigation by one Ramesh Kumar, who had also given some money to the petitioner, as loan.

On the other hand, learned State counsel has pointed out that there are number of cases registered against the petitioner and the petitioner has defrauded the complainant as well.

I have heard learned counsel for the parties.

There is no dispute that the petitioner has received the payment through cheques from the complainant at the time of execution of an agreement to sell. The plea that the petitioner has returned the money to the complainant or that the complainant had issued the receipts, cannot outrightly be accepted, once the entire amount was paid by the complainant to the petitioner by way of cheques. It is difficult to accept that the complainant, who had paid such a hefty amount by way of cheques, would receive back by way of simple receipts.

Considering the fact that not only such a heavy amount is involved in this case, rather the record also reveals that many cases including FIR No.219 dated 28.04.2017 under Section 420 IPC, P.S. Sadar Thanesar and FIR No.273 dated 06.11.2013 under Sections 420/467/468/471/120-B IPC, P.S. Timarpur, Delhi were also registered against the petitioner, this Court is not inclined to grant the relief of anticipatory bail to the petitioner.

Accordingly, the present petition is dismissed.

September 24, 2018 **(HARI PAL VERMA)**
AK **JUDGE**

Whether speaking / reasoned? Yes / No
Whether reportable? Yes / No