

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-29075 of 2017 (O&M)

Date of decision:03.10.2018

Naresh Kumar

...Petitioner

v.

State of Haryana and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Deepender Singh, Advocate for the petitioner.

Mr. Sukhdeep Parmar, Deputy Advocate General, Haryana
for the respondent-State.

Mr. Abhishek Sethi, Advocate for respondent No.2.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.279 dated 11.7.2017 for the offences under Sections 406 and 420 IPC and (Sections 467, 468 and 471 IPC, which were added later on) registered at Police Station Civil Lines Sonipat, Distt. Sonipat.

Notice of motion has been issued in this case.

Mr. Sukhdeep Parmar, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State and Mr. Abhishek Sethi, learned Advocate has appeared for respondent No.2 and contested this petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

The FIR in the present case has been got registered by Nawab Singh against the present petitioner with the allegation that the petitioner entered into an agreement to sell shop-cum-flat for total sale consideration of ₹3,05,00,000/- and ₹1 Crore was paid in cash as earnest money. Later on, the accused-petitioner demanded a sum of ₹71 Lakhs more and executed new agreement to sell dated 15.5.2013. He executed a receipt of ₹1,71,00,000/-. Later on, the complainant came to know that this shop-cum-flat was already resumed by HUDA in the year 2011 and this fact was not disclosed by the petitioner to the complainant neither in the year 2011 nor when the second agreement had been executed in 2013.

Learned counsel for the petitioner as per interim order dated 10.8.2017 made statement before this Court that the petitioner is ready to execute the sale deed in terms of the agreement. Then on 18.8.2017, he submitted to pay the earnest money along with interest at bank rate and this Court asked the petitioner to deposit 50% of the earnest money in the Court within 45 days from that day and the interim bail was granted to the petitioner. Since then 50% of the total amount has not been deposited. Rather, more than one year has passed and it has been stated that the petitioner has paid ₹40 Lakhs only till now. Today, Criminal Misc. No.26287 of 2017 has been filed for correction/modification of order dated 18.8.2017 and for stay that this interest be not got deposited and the order be modified accordingly qua interest.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that it looks that the petitioner's intention from the beginning was to cheat the complainant as at the time of entering into agreement to sell and taking ₹1 Crore as earnest money, he was knowing that the plot was already resumed and he cannot alienate the same. Even in the year 2013, he had not disclosed this fact either orally or otherwise and at the time of transaction between the parties regarding agreement to sell and receiving the money from the complainant, the property of the petitioner was already resumed and this fact has been concealed.

Therefore, keeping in view the above facts, further in view of non-compliance of the order of this Court and by making wrong statement before the Court to obtain the interim bail and by not depositing a single penny within 45 days, though some money was paid later on, but that is also not as ordered by this Court, I find that no ground is made out for grant of anticipatory bail to the petitioner.

Therefore, finding no merit in this petition, the same is dismissed.

However, nothing stated above will constitute any opinion on the merits of the case.

Criminal miscellaneous applications, if any, also stand disposed of.

October 03, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No