

CRM-M-4141-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4141-2018

Date of Decision: 23rd February, 2018

Naresh Garg

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amit Kumar Jain, Advocate
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

Mr. Vazir Singh Mor, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of anticipatory bail by filing the present petition under Section 438 of Code of Criminal Procedure in the light of registration of FIR No.968 dated 24.11.2017, at Police Station City Jind, District Jind, under Sections 323, 34, 406, 420 and 506 of the Indian Penal Code, against him.

It is the contention of the learned counsel for the petitioner that the present FIR pertains to an incident which had taken place in the year 2014 and the transaction was also of the said year. He contends that the process of initiation of the present case is an afterthought and in fact,

it is a civil transaction altogether which has been shown to be of criminal nature. His further submission is that FIR No.0692 dated 02.09.2015 (Annexure P-1) was registered against the petitioner by one Shri Surender Kumar Nain, in which, it was asserted that the petitioner got a sum of ₹ 1,44,00,000/- from the complainant and three others. It is in that process he had earlier entered into an agreement to sell a piece of plot measuring 450 square yards situated in Indra Colony, Jind, on 04.05.2015. Thereafter on 14.05.2015, he had cancelled the earlier agreement to sell and executed a fresh agreement to sell with some other persons. It was alleged that the said plot which was earlier a subject matter of agreement to sell was already a mortgaged property with the bank and therefore, the petitioner could not have entered into an agreement to sell with the said complainant and three others of which the present complainant was also a partner. During the pendency of FIR, a compromise was entered into and petitioner agreed to give four different plots to the complainant and three others as per their respective shares for the amount which was to be paid by him. He, on this basis, contends that had there been any liability qua the complainant against the petitioner, he would have agitated the same at that stage when the earlier matter was compromised in the year 2016. He, on this basis, contends that the present FIR is a false one which has been registered against the petitioner and therefore, he be granted the concession of anticipatory bail.

Counsel for the State, on the other hand, contends that the

petitioner not only has the present FIR registered against him but a similar FIR i.e. No.231 dated 07.04.2015, Police Station City Jind, in which, again an offence of the same nature has been committed by him and he had cheated one Vishal Goel, who is the complainant in the said FIR. He contends that the *modus operandi* of the petitioner is by starting certain committees and thereafter taking money from different persons and not returning the same to them. Apart from that, he contends that the intent of the petitioner can be seen from the very fact that after entering into an agreement to sell with the complainant of the earlier FIR i.e. No.692 dated 02.09.2015 and other three including the present complainant, he had entered in to another agreement to sell with some other persons and got it registered in Tehsil Office, Jind. Assertion has also been made that the present transaction is a different transaction from the one which was the subject matter of FIR No.0692 dated 02.09.2015.

Counsel for the complainant contends that apart from the present FIR and the earlier FIR, which is mentioned above, there are two more FIRs in which brother of the petitioner namely Suresh Kumar is an accused who is a co-accused along with petitioner in these two FIRs as well. All the properties which petitioner and his wife owned, have been intentionally transferred in the name of his brother Suresh Kumar. This further shows the intention of the petitioner. Proceedings under Section 138 of the Negotiable Instruments Act in various cases are also pending against the petitioner. Prayer has, thus, been made for dismissal of the

present petition.

I have considered the submissions made by the counsel for the parties and have gone through the records of the case.

Perusal of the FIR would clearly indicate the intention of the petitioner as he is shown to be owning a sum of ₹ 50,00,000/- in committees from the complainant. The intention of the petitioner can also be seen from the fact that he had got an FIR No.178 dated 16.03.2015, registered under Section 346 of IPC, at Police Station City Jind, regarding he having gone missing, through his family members with a false suicide note in his own hand. It so transpires that he was traced out by the police authorities and his *mala fide* intent is clear to commit an offence. In the suicide note itself, he has admitted the factum of the amount due towards the complainant.

Further the assertion of the counsel for the petitioner that there was a compromise entered into between the parties in FIR No.0692 dated 02.09.2015 relating to ₹ 1,44,00,000/- in which the complainant in the present case was also a party, does not cut much ice for the simple reason that the said transaction was a different transaction altogether, whereas, the present one relates to ₹ 50,00,000/-, which is said to have been cheated by him from the complainant alone. That apart, petitioner and his wife have transferred their properties in the name of Suresh Kumar (brother of the petitioner) as per the counsel for the complainant with further, proceedings under Section 138 of the Negotiable

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Instruments Act also initiated and pending. These clearly show that the prayer made in the present petition cannot be accepted apart from the fact that there is one more FIR according to the counsel for the State i.e. FIR No.231 dated 07.04.2015, which indicates that the custodial interrogation of the petitioner is essential to find out the truth.

No ground for grant of concession of anticipatory bail as prayed for is made out. The present petition, therefore, stands dismissed.

23rd February, 2018
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No