

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

CRM-M No. 42543 of 2017

Date of decision : 19.12.2018

Neeraj Babuta

.....Petitioner

Versus

State of Punjab and another

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Gagandeep Goel, Advocate for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

* * *

DAYA CHAUDHARY, J.

Petitioner Neeraj Babuta has filed the present petition under Section 439 (2) of the Code of Criminal Procedure, 1973 for cancellation of anticipatory bail granted to accused Arvinder Singh vide order dated 01.09.2017 passed by learned Additional Sessions Judge, Ferozepur in case FIR No.35 dated 17.03.2017 under Sections 420 and 120-B of the Indian Penal Code, 1860 registered at Police Station - Guruharsahai.

Learned counsel for the petitioner submits that the accused-respondent No.2 is not the owner of the plot in dispute as said plot belongs to one Ravinder Kumar. Learned counsel also submits that respondent No.2 from the very beginning was having intention to cheat the petitioner by fraudulently inducing him to deliver his hard earned money. All ingredients of Section 415 IPC are proved. Learned counsel also submits that the bail has been granted to the accused without taking into consideration and

without verifying the relevant documents of ownership. At the end, learned counsel for the petitioner submits that a fraud has been played with the petitioner and all these factors have not been taken into consideration while granting bail.

Heard arguments of learned counsel for the petitioner and have also perused the order of grant of anticipatory bail to respondent No.2 by learned Additional Sessions Judge, Ferozepur.

Accused-respondent No.2 was granted anticipatory bail on the ground that he has joined investigation and was not required further.

As per the allegations in the FIR, accused Arvinder Singh (respondent No.2) along with his relative Dharamvir Singh agreed to sell 8 Kanals land to the complainant, which was not owned by Dharamvir Singh and he cheated the complainant. As per the allegations the sale deed was to be executed by one Ravinder Kumar directly. However, said Ravinder Kumar was not the owner of the land as per the revenue record. The interim bail granted to accused has been sought to be cancelled.

On perusal of order of grant of anticipatory bail, it is apparent that accused Arvinder Singh was property dealer. As per case of the prosecution, both the accused cheated the complainant for ₹5,00,000/-. There was a report of the S.P. (Investigation), Ferozepur dated 20.06.2017, wherein it was found that Dharamvir Singh had purchased the land in dispute but it was not entered in his name. Said Dharamvir was ready to get the sale deed executed in favour of the complainant directly from Ravinder Kumar to which complainant did not agree. The accused-respondent No.2

was granted interim anticipatory bail vide order dated 02.08.2017. He was directed to join investigation and he joined investigation and thereafter he was not required for further investigation. The complainant party was not agreeing to get sale deed executed from Ravinder Kumar on behalf of Dharamvir Singh and accordingly, interim anticipatory bail was made absolute. Allegations are matter of evidence, which shall be tested during course of trial. No sale deed was executed.

After hearing arguments of learned counsel for the petitioner, no where it has come on record as to whether respondent No.2 has misused the concession of bail or likely to misuse the order of bail. Grant of bail and cancellation of bail are two different things and both are to be treated separately. In the present case, the petitioner has not been able to show anything as to how order of bail is perverse or how the concession of bail has been misused by respondent No.2. Even no complaint has been made to the police authority or to the Court that respondent No.2 has tampered with the record/evidence or any threat was given to the petitioner.

No ground is made out to accept the submissions made by learned counsel for the petitioner and as such the present petition being devoid of any merit is hereby dismissed.

19.12.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No