

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

CRM-M-4706-2018

Date of decision:-22.2.2018

Mohkam Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.P.K.S. Phoolka, Advocate
for the petitioner.

Mr.Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Mohkam Singh, an accused in FIR No.149 dated 4.12.2017, under Section 420 IPC, registered with Police Station Sadar, Bathinda.

Briefly stated, the facts of the case as per prosecution story are that FIR in this case was registered on the basis of application submitted by complainant Harcharan Singh @ Jaskaran Singh son of Jagsir Singh, resident of village Bhisiana, Tehsil and District Bathinda against Mohkam Singh @ Raja son of Baldev Singh, resident of that very village with regard to committing cheating by entering into an agreement

to sell by playing fraud. That application was inquired into by the police authorities, during the course of which both the parties were called and it came out that Harcharan Singh @ Jaskaran Singh had entered into an agreement to sell dated 19.5.2016 with Mohkam Singh for purchasing 100/1886 share in total 94 Kanals 6 Marlas of land owned by Mohkam Singh and aunt of his father Baldev Singh i.e. 2 Kanals 5 Marlas from Surjit Kaur at the rate of Rs.11,75,000/- per acre; that Mohkam Singh had taken responsibility of getting the sale deed executed standing in the name of his paternal aunt Surjit Kaur; that Harcharan Singh had paid a sum of Rs.3,40,000/- to Mohkam Singh and the date for execution of sale deed was fixed as 18.11.2016., however, since there was strike of employees of DC office Bathinda from 18.11.2016 to 27.11.2016 and Tehsildar was not available on 28.11.2016, the sale deed could not be executed; that on 29.11.2016, applicant Harcharan Singh @ Jaskaran Singh along with his father Jagsir Singh went to Tehsildar office, Bathinda for execution of sale deed and waited there till 5:00 p.m. but Mohkam Singh did not come there, as such Harcharan Singh @ Jaskaran Singh got his presence marked before Tehsildar, Bathinda and thereafter submitted an application at Bullauna Chowki on 27.2.2017 and then in presence of several persons, Mohkam Singh asked for grant of time till 15.3.2017 for execution of sale deed but he again backed out of the same; that the applicant had got his presence marked in the office of Sub-Registrar on 15.3.2017; that Harcharan Singh @ Jaskaran Singh requested Mohkam Singh to execute the sale deed several times or in the alternative to return the earnest money but to no effect.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Bathinda vide order dated 24.1.2018. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the records.

Learned counsel for the petitioner has argued that the dispute between the parties is of civil nature; that there are no allegations of the petitioner having indulged in any forgery; that the title of the petitioner and his paternal aunt is not challenged and they have not executed any sale deed further; that the petitioner is ready to join the investigation, therefore, the petition be allowed.

Whereas the request is being resisted by the State counsel contending that the petitioner has indulged in a fraud by entering into an agreement to sell, which he did not want to act upon right from the very beginning; that he had entered into an agreement in the Panchayat agreeing to execute the sale deed by 15.3.2017 but he resiled therefrom and did not come present to execute the sale deed in favour of the complainant; that before the Court of learned Additional Sessions Judge, Bathinda counsel for the petitioner had submitted that the petitioner was ready to join the investigation and get the recovery effected but did not do

so, as such, the application was dismissed by learned Additional Sessions Judge, Bathinda, therefore, the petition be dismissed.

After hearing the rival contentions of learned counsel for the parties, I find that though apparently the dispute appears to be mainly of civil nature but then dishonest intention of the petitioner also comes out to be there in not executing the sale deed in favour of the complainant despite receiving a sum of Rs.3,40,000/- from him, although agreeing in Panchayat to execute the sale deed in favour of the complainant by 15.3.2017 but without actually doing that. Then again his counsel had made a statement before learned Additional Sessions Judge, Bathinda while seeking grant of interim bail that applicant was ready to join the investigation and get the recovery effected without petitioner returning the earnest money received or executing sale deed in favour of the complainant leaves no doubt in mind that right from the very beginning intention of the petitioner has been dishonest.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being

carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

22.2.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No