

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

CRM-M-47848-2017

Date of decision:-18.5.2018

Vijay Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Argued by: Mr. Joban Singh, Advocate
for the petitioners.

Mr.C.L.Pawar, Sr.D.A.G., Punjab.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner – Vijay Kumar, an accused in FIR No.05 dated 6.1.2017, under Sections 420, 467, 468, 471, 167 and 120-B IPC, lodged against Bhupinder Singh and subsequently, the name of the petitioner was added under Section 120-B IPC, registered with Police Station Sadar, Kharar.

Briefly stated, the facts of the case are that FIR in question was lodged on the basis of statement of complainant Paramjit Kaur wife

of Baldev Singh, resident of Sahoran, Police Station Sadar, Kharar, SAS Nagar aged 53 years wherein she stated that she had purchased 0 bighas and 3 ½ biswas of land situated at village Sahoran, Tehsil Kharar, District Mohali from one Bhupinder Singh son of Gurbax Singh, resident of that very village for Rs.1,17,000/-; that however subsequently it came out that the land sold to her had already been sold to one Harjit Singh son of Tarlochan Singh, resident of Khamano, in that way, Bhupinder Singh had committed a fraud with her; that Bhupinder Singh neither handed over the possession of the sold land to the complainant nor returned the money. After registration of FIR, the matter was investigated, during the course of which it came out that petitioner Vijay Kumar in connivance with co-accused had issued copy of jamabandi in which entry regarding sale of land in favour of Harjit Singh was not mentioned.

Apprehending his arrest in this case, the petitioner has approached the Court of Sessions for grant of pre-arrest bail but his such application was declined by learned Additional Sessions Judge, Mohali vide order dated 29.11.2017. Feeling aggrieved, he has approached this Court for grant of similar relief.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has contended that the dispute is purely of civil nature and a departmental inquiry in that regard is being conducted; that jamabandi for the year 2004 had been prepared by predecessor of the petitioner and mutation has since been cancelled as buyer or seller failed to appear before the revenue authority; that the petitioner is ready and willing to join the investigation, therefore,

concession of pre-arrest bail is granted to the petitioner.

However, I am not impressed by the contentions. After registration of the FIR, during the course of investigation, involvement of the petitioner was found in the fraudulent transaction inasmuch as he had issued copy of jamabandi not having entry of sale by Bhupinder Singh in favour of Harjit Singh, thereby facilitating the fraud/cheating by Bhupinder Singh in selling that land again to the complainant and receiving a sum of Rs.1,17,000/- from her. Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation. Merely because departmental action is being taken does not help the petitioner since the said action is separate from criminal proceedings. Cancellation of mutation also does not wash away the guilt of the accused.

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 petitioners is definitely required for complete and effective investigation to find out as to under what circumstances he has committed the crime. In case custodial interrogation of the petitioners 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.

18.5.2018

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**