

Sr. No.203

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

CRM No. M-47969 of 2017 (O&M)

Date of Decision: 25.04.2018

Sanjay Sehrawat

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Ms. Deepa Jain, Advocate,
for the petitioner.

Mr. Ashish Yadav, Additional A.G., Haryana.

Mr. Akash Vashisht, Advocate for the complainant.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioner seeks concession of pre arrest bail in case FIR No.935 dated 24.10.2017, under Sections 323, 406, 420, 506, 34 IPC, registered at Police Station Sector-7, Faridabad.

Counsel for the parties have been heard.

Briefly noticed allegations are in relation to an agreement to sell entered into between the complainant and the present petitioner for a residential house in Faridabad and in which the total sale consideration was fixed at Rs. 1 crore 70 lacs.

Precise allegation levelled is that Rs.50 lacs had been advanced by the complainant towards earnest money and the sale deed has not been executed on the target date in spite of the

complainant being ready and willing to perform his part of the contract.

Fraudulent intent is attributed on the basis that house in question was already encumbered inasmuch as a loan of Rs.90 lacs was outstanding.

Counsel representing the petitioner does not dispute the entering into the agreement to sell. However, contention raised was that the earnest money received was not Rs.50 lacs but was of Rs.34 lacs.

On a previous date of hearing i.e. 24.01.2018, a statement had been made on behalf of accused/petitioner that he would be ready and willing to return the earnest money and to enter in the settlement.

Based on such stand having been taken, matter was referred to the Mediation and Conciliation Centre of this Court vide order dated 24.01.2018.

It so transpires that a settlement was entered into and reduced in writing between the parties and a report of Mr. Sachin Jain, Mediator to such effect was placed on record.

On a subsequent date of hearing i.e. 03.04.2018, Court had been apprised that petitioner has not complied with the terms and conditions of the settlement and has violated the same. On such date i.e. 03.04.2018 counsel representing the petitioner/accused had submitted that it was on account of certain compelling and pressing circumstances that sum of money as per terms and conditions of the settlement had not been made over to

the complainant. On such date undertaking had been furnished that a demand draft of Rs.03 lacs drawn in the name of the complainant would be furnished on the adjourned date. By recording such undertaking, matter was posted for 06.04.2018. On 06.04.2018, a demand draft of Rs.3 lacs in the name of the complainant had been furnished. Against the outstanding amount of Rs.11 lacs, further undertaking was furnished that part amount i.e. Rs.5 lacs would be furnished on 19.04.2018. Matter having been taken up on 19.04.2018, undertaking furnished before this Court was not complied with and the demand draft of Rs.5 lacs in the name of the complainant was not furnished.

On 19.04.2018, Ms. Deepa Jain, counsel for the petitioner sought indulgence of this Court and prayed for one more opportunity to fulfil the undertaking and to produce a demand draft of Rs.5 lacs in the name of the complainant towards part fulfilment of the settlement.

This Court while showing indulgence adjourned the matter to today and had made it clear that in case the demand draft of Rs.5 lacs is not brought forth, the instant petition seeking concession of anticipatory bail would stand dismissed.

Matter has been taken up today. A demand draft of Rs.5 lacs as per undertaking furnished twice over has not been furnished.

This Court is of the considered view that the petitioner has only been buying time. He has thereby attempted to hoodwink this Court. Against the backdrop of the allegations and

the conduct of the petitioner, prayer for pre arrest bail is declined.

Petition dismissed.

25.04.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No