

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

Sr. No.101

CRM-M-50107-2017 (O&M)
Date of decision : 26.03.2018

Yogesh Yadav

..... Petitioner

VERSUS

State of Haryana

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Akashay Jindal, Advocate, for the petitioner.

Mr. Aayush Gupta, Advocate, for the complainant.

Mr. Sukhbir Singh, Advocate
(subsequent vendee from the petitioner)

SUDHIR MITTAL, J. (Oral)

CRM-8017-2018

This is an application for making the applicant party respondent No.2 in this case. The applicant is the complainant whose complaint has resulted in the registration of FIR in the main case.

Notice of the application.

Mr. Akshay Jindal, Advocate, accepts notice on behalf of the non-applicant and has no objection if the applicant is made party as respondent No.2.

Application is allowed and the applicant is brought on record as Respondent No.2. Amended memo of parties is taken on record.

CRM-8018-2018

This is an application for placing on record reply alongwith Annexures R2/1 and R-2/2.

Notice of the application.

Mr. Akshay Jindal, Advocate, accepts notice on behalf of the non-applicant. He states that an advance copy of the application has been received by him.

Accordingly, the application is allowed and the Annexures R-2/1 and R-2/2 are taken on record.

CRM-M-50107-2017

The petitioner seeks grant of anticipatory bail in case FIR No.1035 dated 23.11.2017, registered at Police Station, Jhajjar, District Jhajjar, under Sections 420 and 506 IPC.

As per the contents of the FIR, the petitioner purchased land measuring 22 kanals 06 marlas from the complainant and gave ten post-dated cheques, amounting to Rs.89,20,000/-, however, none of the cheques was honoured and therefore, the present FIR was got registered.

Learned counsel for the petitioner has contended that there was an agreement dated 01.10.2014 with the mother and brother of the complainant. This agreement was regarding 2/3rd share of the mother and brother in the joint khewat of 66 Kanals. The target date as per the agreement was 15.03.2013. A sum of Rs.86,00,000/- was paid to the mother and brother of the complainant on 01.10.2014 itself. Thereafter, the mother and brother became dishonest and prior to the target date transferred 17 kanals of land on 13.02.2015 in favour of the complainant. Another 14 kanals of land was transferred on 17.02.2016. The sale deed as per agreement dated 01.10.2014 was however, not executed. On 17.02.2016, the complainant sold his 1/3rd share in the joint kewat of 66 kanals measuring 22 kanals to the petitioner. The post-dated cheques were given in hope that the

mother and brother of the complainant would return the amount of Rs.86,00,000/- received by them however, the same did not happen and therefore, the cheques were dishonoured. The submission is that the sum of Rs.86,00,000/- paid to the mother and brother of the complainant is to be adjusted against the sale consideration mentioned in the sale deed dated 17.02.2016 and there is no intention on the part of the petitioner to cheat the complainant. The dispute is a civil dispute and therefore, the petitioner deserves to be granted anticipatory bail.

On the other hand, learned counsel for the complainant submits that the petitioner is a builder and it cannot be believed that such a person would not incorporate the factum of an earlier transaction between him and the mother and brother of the complainant in the sale deed dated 17.02.2016. The complainant has sold his share and has not received a single penny therefor. The intention to cheat is writ large in the facts and circumstances of this case and therefore, the petitioner does not deserve the concession of anticipatory bail. Agreement dated 01.10.2014 was cancelled and the consideration allegedly received was refunded.

It is not in dispute that there was an earlier agreement dated 01.10.2016 between the petitioner and mother and brother of the complainant. It is also not in dispute that the mother and brother transferred 17 kanals of land vide transfer deeds dated 13.02.2015 and 17.02.2016 respectively. It is also not in dispute that a sum of Rs.55,00,000/- was offered by the petitioner during the course of mediation proceedings before this Court, which is the balance sale consideration after adjusting Rs.86,00,000/- paid to the mother and brother of the complainant.

Learned counsel for the complainant has not been able to produce any proof of refund of the amount of Rs.86,00,000/- allegedly paid to the mother and brother of the complainant. Thus, it appears to me that there is a dispute regarding payments between the parties. Prima facie, it does not appear to be an attempt to cheat the complainant. Thus, the petitioner deserves to be granted concession of anticipatory bail.

In view of the above, petition is allowed and petitioner, namely, Yogesh Yadav, is granted anticipatory bail. He is directed to join investigation as and when required by the investigating officer subject to compliance of conditions enshrined under Section 438(2) Cr.P.C.

In case, the petitioner fails to join investigation, the complainant would be at liberty to seek cancellation of the concession of anticipatory bail.

(SUDHIR MITTAL)
JUDGE

26.03.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No