

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

CRM-M-7330-2017 (O&M)

Date of decision:06.02.2018

Devinder Singh Gill

... Petitioner

Vs.

State of Punjab

... Respondent

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

Present: Mr. Abhinav Gupta, Advocate for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

This order shall dispose of the instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.6, dated 06.01.2017, under Sections 406/420 IPC, registered at Police Station Phase-I, SAS Nagar, Mohali.

Counsel for the parties have been heard.

FIR came to be registered on the complaint of Rajinder Singh. Genesis of the dispute is that the complainant asserts that an agreement to sell had been entered into on 27.11.2013 for sale of four flats for a total sale consideration amount of Rs.1 crore. Further allegations are that the entire sale consideration had been made over to the accused/present petitioner. Rs.90 lakhs is stated to have been paid by way of cash.

Petitioner denies the execution of the agreement to sell in all respects.

On 06.03.2017, the following order was passed by this Court:

“Learned counsel for the petitioner submits that, as a

matter of fact, the petitioner has denied the sale agreement in question by which 4 flats were alleged to have been agreed to be sold by him to the complainant.

At this stage, Mr.H.S.Grewal, Advocate, appears and has filed his memo of appearance on behalf of the complainant, which is taken on record. He has produced in Court a photostat copy of the said agreement of sale showing that a sale consideration of Rs.1,00,00,000/- was received by the petitioner under his signatures.

Learned counsel for the petitioner submits that, as a matter of fact, the whole transaction set up, is allegedly on account of a loan taken by the petitioner from the complainant.

Learned counsel for the petitioner would place on record all documents that he wishes to in respect of any such loan taken and learned counsel for the complainant would place on record any document to show the source of Rs.1,00,00,000/- stated to have been paid by him to the petitioner as sale consideration in advance.

Adjourned to 15.3.2017.

In the meanwhile, in view of rival contentions made above, upon the petitioner joining investigation, in case he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate, till the next date of hearing. He shall, further, abide by all the conditions stipulated in Section 438(2) Cr.P.C. ”

Subsequently, during the course of resumed hearing, the following order was passed on 29.03.2017:

“Learned counsel for the petitioner, as also learned counsel for the complainant, seek further time to comply with the order dated 6.3.2017.

Mr.Grewal, learned counsel for the complainant, has

handed over today to HC Sukhwinder Singh, of Police Station Phase I, Mohali, who is present in Court to assist the learned State counsel, a document which is stated to be the original agreement between the petitioner and the complainant.

The petitioner would also hand over to the investigating agency his signatures from a bank account of his, existent prior to the date of agreement of sale, i.e. 27.11.2013. The investigating agency would first determine as to whether the signatures are genuinely of a period prior to that date or not, and thereafter would send the same for comparison to the forensic expert, along with the agreement of sale handed over by Mr. Grewal, learned counsel for the complainant, to HC Sukhwinder Singh.

Adjourned to 16.5.2017.

Interim order to continue till the next date of hearing.”

During the course of hearing today, it has gone uncontroverted that the petitioner having joined investigation had furnished his sample signatures and the expert opinion thereupon has been sought and as per report of FSL, no conclusive opinion had been recorded with regard to the alleged signatures of the petitioner that are stated to be on the agreement to sell dated 27.11.2013.

Counsel representing the petitioner has even adverted to an affidavit dated 23.05.2017 placed on record of the then Senior Superintendent of Police, District SAS Nagar Mohali and in which it had been clearly deposed that the complainant has not furnished the requisite income tax returns to justify the advancement of such heavy cash amount to the accused/petitioner.

It has also not been disputed that till date the complainant has not initiated any civil proceedings on the strength of the alleged agreement

to sell dated 27.11.2013.

In view of the above and against the factual premise, whereby the petitioner has already joined investigation, this Court is of the considered view that his custodial interrogation would not be warranted.

Petition is allowed. Order dated 06.03.2017 passed by this Court is made absolute.

Disposed of.

06.02.2018

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |