

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

CRM-M-5438-2019
Date of decision: 05.04.2019

Devender Bhadana

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. V. K. Jindal, Sr. Advocate with
Mr. Amit Parashar, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Ms. Palak Dev, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No.0019 dated 09.01.2018 registered under Sections 120-B, 406, 420, 447 IPC (Section 467, 468, 471 IPC added vide order dated 31.01.2019) at Police Station Suraj Kund, District Faridabad.

The operative part of the order dated 11.02.2019, vide which the petitioner has been granted interim bail, is reproduced below:

“Learned Senior counsel for the petitioner has submitted that as per the allegations in the FIR, it is stated on behalf of the complainant that on 16 kanals and 19 marlas of land as detailed in the FIR, has been illegally sold or encroached upon by some unscrupulous person and the matter be got investigated through Economic Wing and legal action be taken against the offenders and the land be got vacated and handed over to the complainant. It is

further submitted that essentially it is a civil dispute and during the investigation, it has come that in the year 1992, the aforesaid land was sold by erstwhile owners to M/s. Alamgir Private Limited vide sale deed dated 20.02.1992 and thereafter, the petitioner had no direct role qua the land and if in the intervening period, the complainant failed to protect its possession over the land in dispute and the same has come under the unauthorized occupation, after a period of 24 years, the complainant cannot invoke the procedure under the Criminal Law without getting the right ascertained by the Civil Court especially when as per the revenue record, the land was joint and was subsequently sold in different parts by the earlier owners. Learned Senior counsel for the petitioner has further argued that during the pendency of the anticipatory bail before the Court of Sessions, the petitioner has already joined the investigation and is still ready to re-join the investigation. Counsel for the State, on instructions from ASI Harshvardhan, assisted by counsel for the complainant has submitted that it has come during the investigation that one of the seller of the sale deed in the year 1992, Raj Kumar was found to be a fake person as the original owner stated that he has not executed the sale deed and the petitioner was one of the attesting witness to the same. It is further argued by counsel for the complainant that at present, the aforesaid land is not vacant and is under construction. Be whatsoever, it is not disputed by counsel for the complainant that the complainant is asserting the rights on the basis of the sale deed, executed in the year 1992 and has got the present FIR registered in the year 2018, without resorting to the civil remedy. List again on 05.04.2019.”

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 11.02.2019, has already appeared before the

SHO/Investigating Officer and has joined the investigation.

Learned counsel for the State, on instructions from ASI Harshvardhan, has not disputed the factual position and submits that the petitioner has joined the investigation and is no more required for any further investigation.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 11.02.2019, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

05.04.2019
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No