

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

204)

CRM-M-41839 of 2019 (O&M)

Date of Decision: 02.12.2019

Anil Lepps and another

...Petitioners

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. R.S. Rai, Senior Advocate, with
Mr. Karan Pathak, Advocate, for the petitioners.
Mr. Navdeep Singh, AAG, Haryana.
Mr. Naveen Beri, complainant in person.

Amol Rattan Singh, J. (Oral)

By this petition, the petitioners seek the concession of anticipatory bail, upon FIR no.420, dated 31.08.2018, having been registered at Police Station Sushant Lok, Gurugram, for the alleged commission of offences punishable under Sections 406, 420 and 120-B of the IPC.

On the first date that the petition had come up for hearing (on 27.09.2019), learned counsel for the petitioner had been directed to place on record the agreement entered into between the parties, with the petition adjourned to 04.10.2019, on which date the following order had been passed:-

“Mr.Deol, learned Senior Counsel appearing for the petitioners, submits that, firstly, not even a written agreement of sale has been ever produced by the complainant to substantiate his contention that any flat was to be sold by the petitioners to him and further, even as per the

complaint made by him to the DCP, which forms a part of the FIR, it is stated that Rs.4,09,54,072/- was paid in cash, though he submits that it would seem that as per the vernacular version of the FIR, possibly some amount was also paid by way of a cheque but with the word “cheque” not actually shown in the vernacular version (but with learned Senior Counsel very fairly submitting that some payments were made by cheque).

He further submits that the complainant actually made those payments (by cheque) for the purpose of investment (for which of course this Court has to observe again, that there is no written agreement); but even so, the petitioners would be willing to return at least Rs.2,00,00,000/- to the complainant.

On that contention raised, let notice of motion be issued, returnable on 14.11.2019, with the complainant in the FIR (Annexure P-1) ordered to be impleaded as respondent no.2 in the petition and the Registry directed to carry out the necessary corrections in the memo of parties.

In the meanwhile, upon the petitioners joining investigation and complying with all conditions stipulated in Section 438(2) of the Cr.P.C., if they are sought to be arrested, they shall be released on bail, on their furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

If the investigating officer does not actually join the petitioners in investigation, they would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join them in investigation, in terms of the order of this Court.

As regards the application filed today, i.e. CRM-30993 of 2019, by this application, six documents are sought to be placed on record, including one with respect to an agreement entered into between the petitioners and M/s Sanskar Group on 31.7.2015 (the complainant being one of the Directors of the said group as per the instructions of learned Senior Counsel), and the said agreement being in respect of purchase of a property in Goa, which was to be purchased by the petitioners from the said group.

The application is allowed subject to all just exceptions and the copies of the documents sought to be placed on record are ordered to be taken on record as such, as Annexures P-8 to P-13 with the accompanying petition.”

Today, the complainant in the FIR, i.e. respondent no.2, Naveen Beri, appears in person and submits that as a matter of fact the intended purchase of the property at Goa has nothing to do with the flat to be purchased by the complainant from the petitioners at Gurugram, and therefore, any link sought to be made between the two is misplaced, with this court to therefore to go into only the transactions in respect of the flat at Gurugram.

Mr. Rai, learned Senior Counsel, of course has reiterated that the two are wholly linked with each other and would draw attention to what is stated to be a “Whatsapp chat” between petitioner no.2 and respondent no.2 on 24.11.2017, with him also submitting that in fact as regards the transaction at Goa, money was transferred by the company in whose favour a loan of Rs.20 crores approximately was sanctioned, to respondent no.2, his sister and his brother-in-law to the tune of Rs.11.6 crores.

Respondent no.2 however submits that as regards the money transferred to his sister, the transaction was reversed and as regards the transaction in his bank account, that was for a specific purpose.

Though this Court was in the process of directing him to place on record the documents pertaining to such transfer and reasons thereof, (which direction he, however, was expressing opposition to), learned State counsel on instructions from the police official (ASI) who is present in court to assist him, has submitted that the petitioners having joined investigation, their custodial interrogation is not required.

That being so, with this Court having asked the ASI himself, as to whether their custodial interrogation is required, because the complainant was submitting that to his knowledge the petitioners are not cooperating with the investigating agency, the ASI (in Hindi) has informed this court that all documents that were sought, have been given to him and as such the petitioners' custody is not required at this stage.

Consequently, without making any comment whatsoever on the actual merits of the case, on the statement made by the investigating officer, this petition is disposed of, with the interim order dated 04.10.2019 made absolute.

Naturally, the grant of 'anticipatory' bail to the petitioners on the aforesaid statement made by the investigating officer, would not be taken to be an opinion expressed by this court as regards the merits of the case for or against the petitioners, or as regards the complainant, with the complainant obviously at liberty to avail of all legal remedies available to him qua any of the aspect of the case, including any grievance as regards the investigation process.

02.12.2019
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned: Yes
Whether reportable: No