

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

CRM-M No.477 of 2020

Date of decision: 14.01.2020

Daljinder Singh and others

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Bains, Advocate
for the petitioners.

Mr. A.P.S. Gill, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.203 dated 29.11.2019 registered under Sections 406, 420, 120-B of the of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Mehatpur, District Jalandhar (Rural).

Counsel for the petitioners has argued that as per the allegations in the FIR, the complainant – Swaran Singh has alleged that the accused used to visit their village and by showing a *Jamabandi* for the year 2007-08 regarding the land under the ownership of petitioner No.3 – Sarwan Singh, he entered into an agreement to sell and an amount of Rs.6 lacs was paid on 20.11.2013, Rs.3.5 lacs was paid on 14.06.2014 and Rs.10 lacs was paid on 19.11.2014 in the presence of the witness – Balkar Singh, Advocate. It is further stated that later on, the complainant came to know that the land was already mortgaged and the sale deed was not executed.

Counsel for the petitioners has further submitted that even as per the allegations in the FIR, petitioners No.1 and 2 have no role as they were not owner of the property and with regard to petitioner No.3, he had dealing with the aforesaid Balkar Singh and he had taken some loan @ 2% per month, which was taken in installments to a total of Rs.5 lacs and it was repaid as Rs.5.54 lacs along with the interest. It is further submitted that, in fact, the agreement was allegedly executed as

a surety of the loan taken by petitioner No.3 and the very fact that the complainant never filed any suit for specific performance on the basis of the said agreement show that it was a surety document in terms of the loan document.

Counsel for the petitioners has also argued that the limitation for filing a suit for specific performance on the basis of the agreement to sell has already lapsed and he relied upon the judgment **“Visa Holding vs State of Kerala”, 2015(2) RCR (Criminal) 442** wherein the Hon’ble Supreme Court has held that with regard to a case arising out of an agreement to sell, if the limitation has expired, no criminal liability can be fastened.

Counsel for the State, on instructions from ASI Manjit Singh, has not disputed the factual position as stated in the FIR and has also not disputed the fact that no civil suit was filed by the complainant – Swaran Singh.

Without commenting anything on merits of the case, considering the submissions made by counsel for the parties, the present petition is allowed and the petitioners are directed to be released on anticipatory bail subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to issue a notice in writing to the petitioners to join the investigation as and when they are required.

(ARVIND SINGH SANGWAN)
JUDGE

14.01.2020
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No