

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

CRM-M-18520-2018 (O&M)

Date of decision: 02.03.2020

Gajab Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kirpal Singh Thakur, Advocate for
Mr. Abhilaksh Grover, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Anis Mohd., Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR
No. 77 dated 05.03.2018, registered under Sections 406 and 420 of the IPC
at Police Station Bhupani, District Faridabad.

The operative part of the order dated 03.05.2018, vide which
the petitioner was granted interim bail, is reproduced below:

“It is the contention of learned counsel for the
petitioner that even going by the allegations in the FIR,
petitioner had entered into an agreement to sell of a plot
measuring 600 square yards for an amount of `25,50,000/-
out of which an amount of `12,65,000/-, is alleged to have
been paid to the petitioner. He asserts that it is at the stage
when the remaining amount for purchase of 600 square
yards of land could not be managed, the present complaint
has been filed with an intention to get the money back. He
contends that even if it is assumed that the allegations in

the FIR are correct, the complainant would have filed a suit for specific performance, which also has not been preferred by her. Apart from that, while referring to the report dated 27.04.2018 (Annexure P-3) of the Naib Tehsildar, Tigaon, he contends that the petitioner still is the owner of 1 kanal and 12 marla of land at Mauja Sahravak, which would take care of the agreement to sell, which has been entered into with the complainant as per the above referred to FIR. Counsel contends that nothing has to be recovered from the petitioner and the petitioner is ready and willing to join the investigation and cooperate with the same.

Notice of motion.”

Thereafter, the case was referred to Mediation and Conciliation Centre of this Court, however, no settlement could be arrived at between the parties.

Again, on 14.03.2019, the case was taken up and the following order was passed:

“Learned counsel for the petitioner submits that the petitioner is ready to execute the sale deed of 300 square yard of land in favour of the complainant whereas learned counsel for the complainant submits that the area already shown is not of that place and same land has already been sold twice to some other person. Learned counsel for the petitioner is directed to file an affidavit and supply the details of land to the complainant. The complainant is at liberty to verify the details on the basis of revenue record.

Adjourned to 22.04.2019.

Interim order to continue.”

Thereafter, on 23.01.2020, the following order was passed:

“During the course of arguments, learned counsel

for the petitioner has referred to a report dated 26.04.2018 of Halqa Patwari, Village Raipur Kalan, to state that petitioner Gajab Singh is owner of 1 kanal 11 marla of land in Mauja Sahravak.

Learned counsel for the complainant has referred to a GPA executed by the petitioner in favour of Anoop Kumar, who had further sold 22 kanal 08 marla of land to one Bhavinder as well as Shyamwati, which led to civil litigation and the same is pending before the Civil Judge (Sr. Divn.), Faridabad, where Bhavinder has filed a suit for declaration against petitioner Gajab Singh, aforesaid Shyamwati and one Sunita, in which it is claimed that Bhavinder is entitled for a decree of injunction regarding possession of the aforesaid land.

As noticed in the earlier order dated 14.03.2019, learned counsel for the petitioner had given an undertaking that despite the earlier sale, the petitioner is still ready to execute the sale deed regarding 600 square yards of land in favour of the complainant, as per agreement to sell executed by him in favour of the complainant as equivalent land is still available with him, as per report of the Halqa Patwari dated 26.04.2018.

In view of the above, Naib Tehsildar, Tigaon is directed to file an affidavit regarding availability of clear title land in the name of the petitioner, which can be sold to the complainant, in compliance of the agreement to sell.

List again on 02.03.2020.

SHO, Police Station Bhupani, District Faridabad is directed to communicate this order to Naib Tehsildar, Tigaon to do the needful.”

In pursuance to the aforesaid directions, the affidavit of Naib Tehsildar, Sub-Tehsil Tigaon, District Faridabad has been filed in Court

today. Para 3 of the said affidavit reads as under:

“3. That as per latest Jamabandi for the year 2016-2017 and Revenue Record, the petitioner-Gajab Singh is at present owner of land measuring 5 Kanal 5 ½ Marlas of land out of the total land mentioned in the agreement to sell. The details are as under:

i) Rectangle No. 9, Kila No. 11/1(3-13). Out of this land, the petitioner-Gajab Singh is owner of only 1 Kanal 18 ½ Marle.

ii) Rectangle No. 9, Kila No. 20/2(3-17) and Kila No. 21/1 (3-17). Out of this land, the petitioner-Gajab Singh is owner of 67/154 shares i.e. 3 Kanal 7 Marlas.

iii) Rectangle No. 6, Kila No. 23/2/2(4-1) and Kila No. 24/1(7-0). The petitioner-Gajab Singh is not owner of this land at present and this land has already been transferred to other person.

4. That thus, the petitioner is owner of land measuring 5 Kanal 5 ½ Marle as mentioned above. 1 Kanal 18 ½ Marle is in Rectangle No. 9 Kila No. 11/1 and 3 Kanal 7 Marle are in Rectangle No. 9, Kila No. 20/2 and Kila No. 21/1.”

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 03.05.2018, has already appeared before the SHO/Investigating Officer and has joined the investigation.

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

Learned counsel for the complainant, however, submits that there is a civil suit pending before the Civil Judge, Fariabad regarding the

land in dispute and there is a stay.

I have heard learned counsel for the parties.

A perusal of the said affidavit of Naib Tehsildar, Sub Division Tigaon shows that the petitioner is the owner of more than the land which is subject matter of the agreement to sell, i.e. 600 sq. yards and it is the case of the petitioner that he is still ready to execute the sale deed in favour of the complainant.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 03.05.2018, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

02.03.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No