

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

CRM M-15152 of 2020 (O&M)

Date of Decision: August 05, 2020

Rajiv Garg and another	Petitioners
Versus	
State of Haryana	 Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. D.V. Dhindsa, Advocate
for the petitioners.

Mr. Baljinder Virk, DAG, Haryana.

Mr. Vivek Goyal, Advocate
for the complainant.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of lockdown due to outbreak of pandemic COVID-19.

Petitioners Rajiv Garg and his wife Sonalika Garg both have invoked the jurisdiction of this Court under Section 438 Cr.P.C. by moving first anticipatory bail application in a case bearing FIR No. 114 dated 14.04.2020 under Sections 406 and 420 of IPC registered at Police Station Sector 14, Panchkula.

A complaint was filed by one Yash Paul Garg against the petitioners. The allegations in the complaint were that complainant claims that petitioners were the absolute owners in possession of property bearing Unit No. G03, Tower-C, Resizone Residency, Mayur Vihar, Dehradun and one Ashish Bansal relative of the complainant told him regarding intention of the accused to sell the property at a nominal rate, to which, the complainant agreed. As a consequence of this, Ashish Bansal showed his inclination and asked the complainant to purchase the said property on his behalf. The complainant entered into an agreement to sell for a sum of Rs.40,00,000/- and agreement to sell was executed on behalf of Ashsish Bansal by the complainant with the accused on 14.09.2016 and a sum of Rs.30,00,000/- was paid as earnest money to the accused and the last date of the execution of the sale deed was fixed as 31.03.2017, which was undertaken to be paid at the time of registration of the sale deed/giving of general power of attorney. However, thereafter, the complainant alleges the accused refused to do the needful and the present case was got registered.

Mr. D.V. Dhindsa, learned counsel for the petitioner *inter alia* contends that it is a pure simpliciter civil dispute over agreement to sell and that nothing is to be recovered and it was by mere influence the complainant has managed to secure an order through influence from the Court at Panchkula when

neither the agreement was executed at Panchkula nor the property is situated there and that the petitioners have been falsely implicated.

On behalf of the State, Mr. Baljinder Virk, DAG, Haryana assisted by Mr. Vivek Goyal, learned counsel for the complainant has opposed the bail on the grounds that the accused/husband and wife have committed a fraud with the complainant and have managed to usurp his money on misrepresentation and fraud and, therefore, their custodial interrogation is essential.

Going through the submissions on the plain reading of the allegations and the records, it is quite apparent, especially from the agreement to sell, which is left blank at most of the places and, subsequent addition of the witnesses and their signatures on the same shows belatedly undertaken on the blank spaces and that the present transaction is nothing but a devise made by the complainant and his associates who appears to be real estate venturers. The property is situated at Dehradun, where the petitioners are permanently residing. The manner in which learned Judicial Magistrate of the Court at Panchkula has exercised her powers by virtue of Section 156 of the Code of Criminal Procedure leaves much to be desired and rather reflects that all is not well with this arrangement between the complainant and the Court especially when economic offences wing ruled out any criminality.

Keeping in view that a civil dispute which has been given a tinge of criminality and that nothing is to be recovered, this Court deems it to be travesty of justice if the petitioners are declined this concession. In the light of the same, the present petition stands allowed. Accordingly, the petitioners are directed to appear before the investigating officer within a period of one month from the date of receipt of certified copy of this order and on their doing so, they shall be released on bail to the satisfaction of the arresting/investing officer till submission of report under Section 173 Cr.P.C. (challan). The petitioners shall continue to join investigation and shall furnish an undertaking that they shall abide by the conditions specified under Section 438(2) Cr.P.C. Thereafter, they will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off, accordingly.

August 05, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No