

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

CRM-M-18159-2020

Date of decision: October 15, 2020

Jagdish Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Prashant Vashisth, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Manuj Nagrath, Advocate
for the complainant
(through Video Conferencing).

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.101 dated 27.6.2020 registered under Sections 420/120-B IPC at Police Station Jamalpur Ludhiana City.

Counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of Malkiat Singh, it is stated that Vicky Taak, Jagdish Singh and Tilakraj Dang, Narinder and Subash have cheated him as the accused have given an advertisement in the paper that they are going to carve

out a colony and will allot the plots. The complainant booked a plot of 100 sq. yards vide agreement/allotment letter dated 22.1.2003 for an amount of Rs.70,000/-, which was paid in 60 monthly installments. The possession of the plot was given in the year 2004 and it remained in possession till 19.11.2017. On 19.11.2017, accused Narender and Subash, both opened the lock of one room constructed by the complainant on the plot and took away the belongings.

It is further stated that though as per the agreement the date of sale was 2.1.2008, but accused Nos.1 to 3 did not turn up and the sale deed was not executed. Some details of the complaints made by the complainant to higher police officers and the enquiries conducted are also given in the FIR. Counsel for the petitioner has further submitted that Rama Taak, Director of the Company had given a power of attorney in favour of petitioner-accused Jagdish Singh and he had sold the said disputed plot to one Smt. Lalita Devi, being GPA and received the sale consideration. Counsel for the petitioner has further submitted that there is no specific allegation against petitioner-Jagdish Singh, except that he was a GPA of Rama Taak, which was later on, revoked by her by giving a notice.

Counsel for the petitioner has also submitted that, in fact, the sale consideration from Lalita was paid to Rama Taak.

On 13.7.2020, while issuing notice of motion, the following order was passed :-

“Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.101 dated 27.06.2020 registered under Sections 420/120-B IPC at Police Station Jamalpur, Ludhiana City, District Ludhiana.

Counsel for the petitioner has argued that the property originally belong to Premiers Complex Nichi Mangli, Ludhiana and one Vicky Taak was the Director of the same and he has given a GPA in favour of his mother namely Rama Taak, who has further given an SPA to the petitioner and handed over the possession of the plot 09 years ago for a sum of Rs.4 lacs as full and final payment. It is further submitted that now the complainant Malkiat Singh has started claiming the plot on the ground that he has purchased it from Premiers Complex Nichi Mangli, Ludhiana and has constructed a room and boundary wall on the same, however, on the basis of these documents, the petitioner has taken over the possession over the property.

Counsel for the petitioner has placed on record the affidavit of the complainant – Malkiat Singh and has relied upon the same, which was produced by the petitioner before the Investigating Officer to submit that the matter was settled with him. The said affidavit is taken on record as ‘Mark A’.

Counsel for the complainant has also relied upon the letter of allotment along with the various receipts vide which he has paid the amount. It is further submitted that as per the report of the Handwriting Expert, the signature of the complainant – Malkiat Singh on the affidavit 'Mark A' have been forged by the petitioner and in fact, he is not aware about his dealing with Rama Taak and Vicky Taak. It is also submitted that Vicky Taak travelled abroad whereas Rama Taak is still in the country.

Counsel for the State is unable to inform the Court about the investigation conducted by the police so far and has failed to explain as to how the Premiers Complex Nichi Mangli, Ludhiana has sold the plot which was originally allotted to the complainant – Malkiat Singh and the petitioner has not been arrested so far.

In reply, counsel for the petitioner has argued that the matter is also pending before the Civil Court regarding the possession of the plot.

List again on 07.08.2020.

Till the next date of hearing, no coercive action be taken against the petitioner.

In the meantime, the Commissioner of Police is directed to look into the aforesaid facts and find out whether Rama Taak being GPA of Vicky Taak, the Director of Premiers Complex Nichi Mangli, Ludhiana, was competent to sell the plot which was allotted to the complainant –

Malkiat Singh and the action taken by the police against these two accused persons i.e. Vicky Taak and Rama Taak.”

Reply by way of affidavit of Commissioner of Police, Ludhiana is on record.

It is stated in the reply that on 21.9.2020, complainant Malkiat Singh and Rama Taak have entered into a compromise by entering an agreement dated 29.9.2020 which was given by the complainant to the Investigating Officer on 9/10.2.020 stating that agreement dated 29.9.2020 is correct. The affidavit of Malkiat Singh is duly sworn by the Executive Magistrate and the same was taken by the Investigating Officer. It is further stated in the affidavit that petitioner-Jagdish Singh is the main accused and the allegations are that he along with co-accused had duped the complainant of money while selling the complainant's plot to one Lalita.

It is also stated in the affidavit that during investigation it revealed that the petitioner was having every knowledge about sale in favour of complainant-Malkiat Singh as he had given commission to Vicky Taak in this regard. Even on earlier occasions, some compromise was effected between Malkiat Singh-complainant and Jagdish Singh-petitioner prior to registration of the FIR, in which the possession of the complainant was acknowledged by the petitioner. It is further

stated in the affidavit that Rama Taak has executed SPA in favour of the petitioner on 15.4.2011, which was a registered SPA and it was, later on, cancelled by her on 16.9.2011 by a registered cancellation deed.

As per the statement of Rama Taak, the petitioner had knowledge about the cancellation of SPA. It is further stated in the affidavit that the petitioner, for the first time, produced an affidavit dated 17.1.2013 before the Investigating agency. However, the petitioner did not co-operate and not handed over the original affidavit, so as to check the authenticity of the same. On verification from the office of Registrar, it was found that the stamp paper, on which this affidavit dated 17.1.2013 was prepared, was not purchased in the name of Rama Taak but was purchased by petitioner-Jagdish Singh himself. Even the stamp vendor has made a statement to this effect.

It is also stated in the affidavit of the Commissioner of Police, Ludhiana that though the petitioner is relying upon an agreement P4 to contend that he has given Rs.04 Lacs to Rama Taak as full and final payment regarding disputed Plot No.C-555 but the original of the same has never been produced by the petitioner as he is not co-operating. On further enquiry it was found that the stamp paper was purchased by one Charanjit Singh and not by Rama Taak. Again the stamp vendor has also verified this fact. It is stated that both the affidavits dated

17.1.2013 and the agreement set up by the petitioner are under investigation and the petitioner has failed to provide the originals of the same. It is also stated that Rama Talk is an old lady and remains ill and has a very poor vision due to high BP, sugar and health problem. She was dependent on petitioner Jagdish Singh and used to act as per his advise. Though she is nominated as an accused, but investigation suggests that petitioner-Jagdish Singh is the main accused and Rama Taak was acting on her advise. The affidavit is supported by all the documents/statements/verification relied upon in the same.

The learned State counsel, assisted by learned counsel for the complainant, have thus, prayed for dismissal of the petition.

I have heard learned counsel for the parties.

It is found that petitioner-Jagdish have not brought correct facts before this Court when the notice of motion on 17.8.2020 was issued and even on subsequently when he was interim protection. During investigation he has failed to provide the original documents relied upon by him on the basis of which the interim protection was granted.

After hearing learned counsel for the parties and looking into the serious allegations against the petitioner and also in view of the fact that he has relied upon certain

documents, existence of which is disputed by the investigating agency and further the petitioner has failed to provide the originals of the same and failed to co-operate in investigation, I find no ground to grant the anticipatory bail.

The petitions stands dismissed.

The show cause notice issued to Commissioner of Police, Ludhiana is also rendered infructuous.

October 15, 2020
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No