

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 22897 of 2020 (O&M)

Date of Decision: 05.11.2020

Shubham

..... Petitioner

V/s.

State of Haryana and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGANPresent: Mr. Munish Kumar Garg, Advocate
for the Petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja, Advocate for the complainant.

Avneesh Jhingan, J. (Oral)

The matter is taken up for hearing through video conference due to
COVID-19 situation.

CRM-23166-2020

2. An application has been moved by Ajay Garg for impleading as a
respondent. The application is allowed. The applicant is impleaded as respondent.

CRM-23262-2020

3. An application has been moved for placing on record short reply with
Annexures. The application is allowed. Reply and Annexures are taken on record.

CRM-M-22897-2020

4. Aggrieved of order dated 20.07.2020 passed by Additional Sessions
Judge, Panchkula declining anticipatory bail, the present petition is filed. FIR
No.17 dated 21.02.2020 under Sections 419, 420, 467, 468, 471, 120B Indian Penal
Code, 1860, was registered at the instance of Prem Kumar. The allegations in the
FIR are that the land of the complainant was sold vide Sale Deed No. 4178/1 dated

11.02.2020 and Sale Deed No. 4185/1 dated 12.02.2020 by impersonating. In the

FIR, the name of the purchasers, witnesses and the Deed Writer were mentioned. During the investigation, one of the purchasers namely, Ajay Garg became a *de facto* complainant by moving an application. He produced a copy of receipt of token amount, agreement to sell and a Bank statement of IndusInd Bank of a joint account of Prem Kumar and the petitioner (Shubham).

5. It was on the basis of the said documents that the name of the petitioner surfaced during investigation. The learned counsel for the petitioner submits that the petitioner was not named in the FIR and no role has been attributed. Further, he relies upon the fact that the accused named in the FIR have already been granted bail.

6. The learned counsel for the newly added respondent argues that from the receipt, it is evident that it is the petitioner who entered into agreement to sell on behalf of his father. He received the token amount and six cheques of Rs.10.00 lakhs each. Four out of six cheques, were issued by Ajay Garg and two were issued by Manoj Kumar. He presses into service the Bank statement of the joint account of the complainant and the petitioner to show that the said cheques were deposited in the joint account. He opposes the prayer of the anticipatory bail stating that the petitioner is the main accused, who got the money, it was the petitioner who produced someone as his father for cheating him.

7. Learned State counsel submits that in order to have the true picture, the custodial interrogation is necessary, moreover, the amounts are to be recovered.

8. Considering the facts of the case in entirety, especially from the angle that a land which was a joint estate of Prem Kumar and his brother, was sold by Shubham, son of Prem Kumar. He gets the cheques and the token money, issues the receipt. The cheques are deposited in a joint account of Prem Kumar and Shubham.

Very conveniently, Prem Kumar registers an FIR without naming his son. The petitioner being the master mind of the entire episode needs to be interrogated in custody, for the deeper probe of the incident. The documents produced by the newly added respondent, *prima facie* all indicate towards the petitioner.

9. The reliance of the learned counsel for the petitioner on the bail granted to the co-accused, is of no avail to him. The co-accused roles were only of deed writing or as witnesses whereas what has surfaced during the investigation shows the petitioner as a main player. As such, no case is made out for grant of pre-arrest bail.

10. The petition is hereby, dismissed.

11. It is clarified that anything observed above is only for the purpose of deciding the petition under Section 438 Cr.P.C.

November 05, 2020

Sonia Puri

**(AVNEESH JHINGAN)
JUDGE**

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes