

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

CRM-M-32748-2019 (O&M)

Date of decision: 29.01.2020

Manohar Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Inderjit Sharma, Advocate for the petitioner.

Rana Harjasdeep Singh, DAG, Punjab.

Mr. Ritesh Pandey, Advocate for the complainant.

H.S. MADAAN, J. (Oral)

This petition for pre-arrest bail has been filed by petitioner Manohar Lal, an accused in FIR No.105 dated 10.07.2019 for offences under Sections 419, 420, 467, 468, 471 and 120-B IPC, registered with Police Station City, Gurdaspur, Tehsil & District Gurdaspur.

Briefly stated facts of the case as per prosecution version are that FIR in this case was got registered by complainant Fuman Singh by submitting a written complaint to SSP, Gurdaspur, wherein he contended that Manohar Lal son of Rashpal Singh, resident of Village Gazikot, Tehsil Dinanagar, District Gurdaspur (present petitioner) has been his close associate/friend since long, rather, their respective ancestors were having cordial relations. Therefore, he had

blind faith in Manohar Lal. Manohar Lal used to persuade him to buy/purchase land located at Village Gazikot and showed him land at the spot. He had brought relevant documents. According to the complainant, he asked Manohar Lal to arrange a meeting with owners of the land. Manohar Lal accordingly brought a person to his house stating that he was Diwan Singh owner of the land. The complainant agreed to purchase the land @ Rs.26 lacs per acre and paid Rs.32 lacs as earnest money. The remaining sale consideration was agreed to be paid at the time of registration of sale deed. According to the complainant, having blind faith in Manohar Lal, he asked him to get the agreement to sell scribed. Manohar Lal accordingly did so, handing over that agreement to sell to the complainant and received cash amount from him. The agreement was signed by Manohar Lal as an attesting witness, whereas, the second attesting witness was co-villager Rimpal. Date for registration of sale deed was fixed as 31.03.2017. Similarly, Manohar Lal got executed another agreement to sell by Kanta Devi daughter of Inder Singh, resident of Gazikot, measuring 06K-7M @ Rs.32 lacs per acre against which Rs.20 lacs were paid as earnest money and date for registration of sale deed was fixed as 22.04.2016. Manohar Lal was one of the attesting witnesses. That agreement was also given to the complainant. According to the complainant on the stipulated dates, he requested Manohar Lal to bring the owners for registration of the sale deed but he put up the matter on

one pretext or the other. The complainant became suspicious and served legal notice upon the original owner and enquired into the matter. Then, he came to know that Diwan Singh had died since long. The complainant contacted Manohar Lal who ultimately admitted his mistake, stating that he had used the said money for his personal needs and would return the same to him in a short period. He also brought one affidavit duly attested and agreed to return the money with interest. The complainant agreed to accept the cash amount but again Manohar Lal dragged his feet in the matter and rather hurled threats to the complainant that he would commit suicide and the complainant would suffer irreparable damage. Formal FIR No.105 dated 10.07.2019 for offences under Sections 419, 420, 467, 468, 471 and 120-B IPC was , registered with Police Station City, Gurdaspur.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions, seeking pre-arrest bail but such petition was dismissed by Addl. Sessions Judge, Gurdaspur, vide order dated 22.07.2019. Thereafter, the petitioner has approached this Court with similar prayer. The request is being resisted by the State counsel as well as by counsel for the complainant.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has contended that there has been a delay of 04 years in registration of FIR; the petitioner is only an attesting witness of the agreements; Kanta Devi is willing to

execute the sale deed; the dispute between the parties is of civil nature; the petitioner does not have any previous criminal record; the petitioner has joined the investigation in terms of the interim bail granted to him by this Court. Therefore, his custodial interrogation is not required and he be granted pre-arrest bail.

Whereas, such prayer is being vehemently opposed by learned State counsel as well as by learned counsel for the complainant.

I find that the allegations against the present petitioner are very grave and serious. He is alleged to have got an agreement to sell executed from Diwan Singh when Diwan Singh had already died by putting forward some imposter. The petitioner had signed that agreement as an attesting witness. He is said to have received Rs.32 lacs as earnest money from the complainant for payment to Diwan Singh and Rs.20 lacs for payment to Kanta Devi but then misappropriated the amount himself. The custodial interrogation of the petitioner is definitely required for complete and effective investigation. The custodial interrogation of the petitioner is found to be necessary. The custodial interrogation is more elicitation oriented since a person couched in comparative safety of the pre-arrest bail would definitely not disclosed all the facts within his knowledge. In case the custodial interrogation of the petitioner is denied to the investigating agency that shall leave many loose ends affecting the investigation adversely, which is uncalled for.

As far as the contentions raised by learned counsel for the petitioner, those are on merits of the case, which can be considered during the trial but not at the stage of grant of pre-arrest bail. The yardstick used for grant of bail is definitely different from determining guilt of the accused during trial. Though the petitioner is shown to have joined the investigation in terms of the interim bail granted to him by this Court but as informed by the State counsel, he has neither got recovery of money effected nor informed the factual position to the investigating agency. Therefore, the petition is bound to fail and is dismissed accordingly.

29.01.2020

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No