

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

206

CRM-M-49060-2019 (O&M)

Date of decision: 04.03.2020

Yatender Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Parminder Singh, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Vivek Goyal, Advocate for the complainant.

SUVIR SEHGAL J. (ORAL)

Mediation between the parties has failed twice over.

Through the instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No.448, dated 17.10.2019 registered under Sections 406, 420 of IPC at Police Station Sector 5, Panchkula, District Panchkula.

On November 19, 2019, the following order was passed:-

“The petitioner is seeking anticipatory bail in FIR No.448, dated 17.10.2019, under Sections 406 and 420 IPC, registered at Police Station Sector 5, Panchkula.

Learned counsel for the petitioner contends that there is a delay of 06 years in registering the FIR wherein it is alleged that the petitioner had received an amount of ₹4.5 lacs while entering into agreement to sell his

flat to the complainant but the sale deed was not executed. He further contends that the petitioner is ready to execute the sale deed, although the target date had been extended on a number of occasions but the complainant did not appear before the Registrar. The wife of the petitioner, who is co-accused in this case, has expired on 07.11.2019. He also contends that without prejudice to his rights and contentions, the petitioner would try and settle the matter with the complainant.

Issue notice to the respondent returnable on 12.12.2019.

In the meantime, the petitioner is directed to appear before the investigating/arresting officer and join investigation. In the event of his arrest, the investigating/arresting officer shall release the petitioner on ad interim bail subject to his satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438 (2) Cr.P.C.”

Counsel appearing for the State assisted by counsel for the complainant, has argued that the notice of motion order issued on 19.11.2019 is based on misstatement of facts. Firstly, he submits that the petitioner had submitted a complaint on 28.02.2017 which culminated in registration of the FIR dated 17.10.2019. Therefore, the petitioner mislead this court in submitting that there was a delay of 6 years in the registration of the FIR. Secondly, the State counsel points out that the petitioner was not in a position to execute the agreement to sell since the petitioner was no longer in possession of the flat as his complaint before the District Forum was allowed on 01.05.2015 and in pursuance to

that the petitioner had received back the money, which had been deposited for purchase of the flat, from the developer. Not only the petitioner was reimbursed the amount deposited by him for the flat from the developer but he also retained the amount taken by him from the complainant under the agreement to sell the flat.

Keeping in view the totality of the circumstances and the submissions made by counsel for the State assisted by the counsel for the complainant, the instant petition deserves to be dismissed.

04.03.2020

pooja saini

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No