

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

**CRM-M-52364-2019
Date of decision: 05.02.2020**

Yogesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vinod Ghai, Sr. Advocate with
Mr. J. S. Mehendiratta, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Ms. Sharmila Sharma, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 388 dated 13.11.2019, registered under Sections 306, 34 of the IPC (Section 420 IPC added later on) at Police Station Civil Lines, Sonipat, District Sonipat.

Learned senior counsel for the petitioner submits that the anticipatory bail application of co-accused Naresh Kumar Nasa was dismissed by this Court, vide order dated 13.01.2020 passed in CRM-M-469-2020. The operative part of the order reads as under:

“Learned senior counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of the complainant against the petitioner – Naresh Nasa, who is owner of Nasa Electrical and the co-accused Yogesh Bajaj, SDO in Haryana State Electricity Board i.e. DHVPNL, it is stated that the husband of the complainant was found hanging with a ceiling fan on 30.11.2019 at about 06:00 pm. During the day time, her

deceased husband told her that he had executed a sale deed of his house in favour of the wives of the petitioner – Naresh Nasa and the co-accused Yogesh Bajaj, who had to give payment to him but they are harassing him to a great extent and due to the humiliation by the petitioner – Naresh Nasa and Yogesh Bajaj, her husband has committed suicide as they did not give his money to him, therefore, strict action be taken against them.

The police recovered the suicide note, which reads as under:-

“I am committing suicide. Naresh Nasa (Nasa Electrical) and Yogesh Bajaj (SDO, Haryana Electricity Board) are responsible behind my death. Both of them have cheated me. Both of them first purchased my property (Property No.117C1480218, Nandwani Nagar, Behind Axis Bank) and the deal was struck at Rs.1,58,00,000/- (Rupees One Crore Fifty Eight Lacs) and they also stated that they will get the bank loan transferred in their name and asked to get the registry executed in their names and out of the remaining payment they will give me Rs.5.00 or 7.00 lacs after executing registry and the balance amount shall be given within three months. Both of them got the registry executed in favour of their respective wives. The persons to whom I was to make payment had been given time of six months by me. Both of them did not give me Rs.5.00 lacs and rather stated that market is down, they will make payment after few days. Now six months have lapsed, neither these persons have given me Rs.5.00 lacs nor they are making payment of balance amount and are rather speaking, “we are not able to purchase but we will sell your property and make you payment after deducting our payment. Later they stated that the property is selling for Rs.1,20,00,000/- and you are to give us total Rupees One Crore Twenty Lacs on account of our share and that of the bank and in this way, this property is ours now and if you can sell it at higher valuation, give us Rs.One Crore Twenty Lacs and keep the balance. Now they don't want to give me anything whereas I had taken loan of Rs.7.00 lacs each from both of them and by adding the amount of Rs.82.00 lacs of bank, I was to give them Rs.96,00,000/- (Ninety-Six Lacs). But now they are not giving me anything. I am not in a position to either work or give money to the persons to whom I owe, because

both of them are not giving me the payment. Because of these two, I am going to end my life. These two (Naresh Nasa and Yogesh Bajaj) are responsible for my death.”

Learned senior counsel for the petitioner has further submitted that in fact the deceased owe money to the petitioner and one IIFL Home Finance Loan Limited and in order to repay the loan, he had entered into an agreement to sell dated 09.03.2019 with the petitioner and the co-accused Yogesh Bajaj with regard to sale of the deceased's house measuring 300 sq. yds. in Nandwani Nagar, Sonapat, in which the sale consideration was Rs.84 lacs and Rs.2 lacs was paid as earnest money and the balance payment was to be made on or before 15.05.2019.

A perusal of a vernacular of the agreement show that the stamp was purchased on 08.03.2019 and it was allegedly signed by the deceased – Om Parkash as vendor and the petitioner – Naresh Nasa and the co-accused – Yogesh Bajaj as vendees with two witnesses i.e. Ramesh Kumar and Ritu.

Learned senior counsel for the petitioner has further submitted that the complainant has set up another agreement to sell dated 01.04.2019 with the petitioner and the co-accused Yogesh Bajaj in which the total sale consideration was settled as Rs.1 crore 58 lacs. In this agreement, an amount of Rs.3.30 lacs and Rs.4.70 lacs was shown to be transferred by way of RTGS in favour of IIFL Home Finance Loan Limited.

The stipulated date for execution of the sale deed was fixed as 20.11.2019. This agreement was also allegedly signed by the deceased – Om Parkash as vendor and the petitioner – Naresh Nasa and Yogesh Bajaj as vendees and one Rakesh and Ritu were the witnesses.

Learned senior counsel for the petitioner has also submitted that in fact in pursuance to the agreement to sell dated 09.03.2019, certain amounts were transferred in the account of IIFL as per the bankers cheque/statement of accounts, attached as Annexures P6 to P-8. It is further submitted that later on, the sale deed was executed on 22.05.2019 in favour of Neha Rani wife of the petitioner and Ranjana wife of the co-accused Yogesh Bajaj by showing the total sale consideration as Rs.58 lacs and stamp duty as Rs.2.90 lacs. It is also submitted that two transactions by way of RTGS of Rs.3.30 lacs and Rs.4.70 lacs as well as the bankers cheque for Rs.50 lacs (all in favour of IIFL Home Finance Loan Limited) was shown as the sale consideration i.e. total Rs.58 lacs and thereafter, the sale deed was executed.

Learned senior counsel for the petitioner has further argued that the contents of the suicide note clearly show

that it was a money dispute between the petitioner and the co-accused and the deceased and there is no abetment to commit suicide and therefore, the petitioner is entitled for anticipatory bail.

Learned senior counsel for the petitioner has referred to the order dated 09.12.2019 passed by this Court in CRM-M No.52364 of 2019 wherein while issuing notice on the application of co-accused – Yogesh Babaj, the following observation was made:-

“Contentends that undisputedly the deceased executed the registered sale deed dated 22.05.2019 (P-10) in favour of wives of the petitioner as well as of co-accused, Naresh Nasa, namely, Rachna and Neha Rani, respectively and till date there is no challenge to the same. Further contends that the entire sale consideration as reflected in the above sale deed was paid at that time, thus, there is no occasion to attribute the allegation of abetment to commit suicide on account of any foul play during the transaction between the parties....”

Learned senior counsel for the petitioner has also argued that since the deceased has not challenged the sale deed executed in favour of the wives of two accused persons, therefore, no case of abetment is made out against the petitioner.

In reply, counsel for the State, on instructions from ASI Ramesh Kumar as well as counsel for the complainant have strongly opposed the prayer for bail.

Counsel for the State has argued that from the perusal of the suicide note, the harassment was apparently caused by the petitioner and the co-accused, which resulted into abetment to the deceased to commit suicide.

Counsel for the State has further argued that in the suicide note, it is specifically stated that the accused persons despite getting the sale deed executed have failed to make the balance payment though the value of the house was fixed as Rs.1 crore 58 lacs (One Crore Fifty Eight Lacs Rupees). It is also stated in the suicide note that despite the lapse of 06 months, the accused persons have not made the payment and rather harassing the deceased on one pretext or the other by saying that they will further sell the house. It is also stated in the suicide note that the deceased has taken a loan of Rs.7 lacs each from both the accused persons and since he owed certain amounts to the bank, he had the outstanding liability of Rs.96 lacs and despite the sale deed executed by the petitioners, the remaining amount out of Rs.1 crore 58 lacs was not paid by them.

Counsel for the complainant has additionally argued

that in fact as per the agreement to sell dated 01.04.2019, the sale deed was executed and the accused persons despite assurance to pay the remaining sale consideration after adjusting the loan amount did not pay the loan and rather refused to make the payment, the factum of agreement to sell dated 09.03.2019 set up by the accused persons was denied. It is further argued that the deceased owed Rs.7 lacs each from both the accused persons and an amount of Rs.84 lacs has been paid to the bank and therefore, out of the total sale consideration of Rs.1 crore 58 lacs, the accused persons by taking Rs.14 lacs, have not paid the balance amount to the deceased despite the fact that he has sold his own house and rather they started harassing and humiliating the deceased in such a manner that virtually they abetted him to commit suicide.

Counsel for the complainant has also argued that as the deceased was in need of money and the accused did not make the payment and started harassing him, there was no occasion for him to challenge the sale deed as the deceased, who was in need of money due to his financial constraints.

After hearing the counsel for the parties, I find no ground to grant the concession of anticipatory bail to the petitioner for the following reasons:-

(a) In the agreement to sell dated 01.04.2019, the sale deed was settled as Rs.1 crore 58 lacs and it was stated that Rs.3.30 lacs and Rs.4.70 lacs was transferred by way of RTGS in favour of IIFL Home Finance Loan Limited. A perusal of the sale deed, it was subsequently executed on 22.05.2019 also incorporates these two entries apart from a sum of Rs.50 lacs deposited in favour of IIFL Home Finance Loan Limited by way of a bankers cheque. By adding of these 03 entries, the sale consideration was shown as Rs.58 lacs, though, it is own case of the petitioner that as per the agreement to sell dated 09.03.2019, the sale consideration was Rs.84 lacs, therefore, the agreement to sell dated 09.03.2019 set up by the petitioner and the co-accused Yogesh Bajaj, seems to be suspicious and requires scientific investigation.

(b) The accused after purchasing the house of deceased after deducting their 14 lacs never made balance payment and the deceased had no knowledge that after execution of sale deed, the accused will harass and humiliate him for 06 months despite knowing that he had no money to carry on his livelihood. This consistent behaviour of the accused abetted him to commit

suicide.

(c) As per the agreement to sell dated 09.03.2019 set up by the petitioner, the amount of Rs.84 lacs was settled as a total consideration and Rs.2 lacs was paid as earnest money. The first page of this agreement, where the details of total sale consideration and the earnest money, is given is not signed either by the vendor or the vendee.

(d) The petitioner and the co-accused are specifically named in the suicide note and there are specific allegation of causing harassment, humiliation on account of not making the payment despite the fact that the deceased was facing great financial crunch which forced him to sell his house and the petitioner and the co-accused never made the balance payment as it is not the case of the petitioner that they had made any further payment even as per their own agreement to sell.

(e) Mere fact that the sale deed was not challenged by the deceased will not absolve them as the deceased was in need of money and despite execution of the sale deed, the accused did not pay him balance amount as per the agreement to sell dated 01.04.2019. It is common practice that sale deeds are executed on circle rates fixed by District Collector to evade stamp duty and deceased who was facing financial crunch. Therefore, it is not a fact to be considered, at this stage.

In view of the above and considering the serious allegations leveled against the petitioner in the FIR, in the suicide note and on the basis of the other documents, the custodial investigation of the petitioner is required, the present petition is dismissed.

Learned senior counsel for the petitioner further submits that specimen handwriting of the petitioner has already been taken and the matter is under investigation.

However, learned counsel for the State, assisted by learned counsel for the complainant, opposes the grant of anticipatory bail to the petitioner in view of the serious allegations him.

After hearing learned counsel for the parties and considering

the serious allegations against the petitioner, as noticed in the aforesaid order dated 13.01.2020, I find no ground to grant concession of anticipatory bail to the petitioner.

Accordingly, the present is hereby dismissed.

05.02.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No