

CRM-M-52752 of 2019

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

CRM-M-52752 of 2019
Date of Decision: 28.02.2020

Raj Kumar Sharma

...Petitioner

Versus

State of Haryana

....Respondent

CRM-M-3331 of 2020

Tanu Sharma and another

...Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Manoj Kaushik, Advocate, for the petitioners.
Mr. Chetan Sharma, AAG, Haryana.
Mr. Deepak Kumar, Advocate, for the complainant.

RAMENDRA JAIN, J. (ORAL)

Learned counsel has filed vakalatnama on behalf of the complainant in CRM-M-52752 of 2019 on his own, though he has not been impleaded as party. The same is taken on record.

By this common order, I shall dispose of above-titled two petitions under Section 438 Cr.P.C. for grant of anticipatory bail to petitioners, namely, Raj Kumar Sharma (CRM-M-52752 of 2019), Tanu Sharma and Sandeep Dutt Sharma (CRM-M-3331 of 2020) in case FIR No.223 dated 21.04.2019 registered under Sections 420, 406, 120-B IPC at

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Police Station Central Faridabad, District Faridabad.

For the sake of brevity, facts are being taken from CRM-M-52752 of 2019.

M/s Earth Buildmart Pvt. Ltd. was owner in possession of land measuring 49 kanals 13 marlas situated at Village Kabulpur, Faridabad. Its Director, namely, Hari Mohan Sharma, carving out a colony in the aforesaid land, sold some plots to 20/30 people, including the complainant, receiving booking amount of ₹10,68,100/- from them against receipts of M/s Earth Buildmart Pvt. Ltd. bearing Nos.7114 dated 06.08.2013, 7037 dated 06.06.2013, 7031 dated 18.02.2013, 7013 dated 22.01.2013, 7003 dated 05.01.2013, 7131 dated 07.10.2013 and 7133 dated 08.10.2013. Hari Mohan Sharma, seller, had assured to handover possession and execute sale deeds in favour of the purchasers after making full development in the land. Thereafter, Hari Mohan Sharma, Director of M/s Earth Buildmart Pvt. Ltd., allegedly executed a sale agreement dated 13.04.2013 {Annexure P-3 (Colly)} in favour of petitioner Raj Kumar Sharma for land measuring 1 acre 4 marlas, out of total land measuring 49 kanals 13 marlas, against sale consideration of ₹1,10,00,000/-, which was allegedly paid by the petitioner in cash. Ten months thereafter, on 06.02.2014, one Naveen Kumar, claiming himself to be Manager of M/s Earth Buildmart Pvt. Ltd., executed another sale agreement in favour of petitioner Raj Kumar Sharma, further selling 1 acre of land in a sale consideration of ₹1,35,00,000/-, which was also allegedly paid in cash by petitioner Raj Kumar Sharma. Thus, by way of above two agreements, petitioner Raj Kumar Sharma purchased total land measuring 2 acres 4 marlas (16 kanals 4 marlas). Around one year

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thereafter, petitioner Raj Kumar Sharma executed a general attorney in favour of Sandeep Dutt Sharma (petitioner No.2 in CRM-M-3331 of 2020) for land, claiming himself to be registered owner of 16 kanals 4 marlas out of total 49 kanals 13 marlas of land and instead of Faridabad got it registered in Uttar Pradesh. Pursuant thereto, Sandeep Dutt Sharma executed a sale deed in favour of Tanu Sharma (petitioner No.1 in CRM-M-3331 of 2020), who is none else, but wife of petitioner Raj Kumar Sharma, showing payment of sale consideration of ₹1,01,25,000/- in cash on 29.04.2015. Complainant Roshan Kumar Dass filed a civil suit for possession by way of specific performance of agreement to sell dated 01.01.2013 in the year 2017. Two years thereafter, noticing that aforesaid entire transaction between Hari Mohan Sharma and petitioners was fraudulent and sham, complainant lodged impugned FIR.

Referring to order dated 30.10.2017 (Annexure P-7 in CRM-M-52752 of 2019) passed by a Co-ordinate Bench in CRM-M-30804 of 2017, learned counsel *inter alia* contends that in another FIR No.155 dated 07.08.2016 lodged by a plot holder on similar allegations, the petitioner was granted anticipatory bail on the ground that matter in dispute between complainant of that FIR and petitioner Raj Kumar Sharma was of civil nature. Civil Court is already seized of the matter in a civil suit for specific performance filed by the complainant, thus petitioner is not required for custodial interrogation.

Refuting above submissions, learned State counsel, assisted by learned counsel for the complainant, vehemently opposed bail petition, submitting that during investigation, whereabouts of Hari Mohan Sharma,

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who is whistle blower to the entire sham transaction, till date could not be traced out in a span of approximately ten months. In FIR No.155 dated 07.08.2016, lodged by some other person, Hari Mohan Sharma has been declared proclaimed offender. In the name of Hari Mohan Sharma, a fictitious identity, entire fraud with innocent poor purchasers of small plots has been managed by the petitioners. Drawing attention of this Court towards general attorney (Annexure P-4), it has been pointed out that petitioner Raj Kumar falsely has shown his present address of Haibatpur, Noida, to create jurisdiction, to get registered the same, contrary to his address in the present petition. More so, when petitioner Raj Kumar Sharma was already owner of 16 kanals 4 marlas of land vide registered sale deed No.24744 dated 12.02.2008, in that eventuality it is unexplained as to what was the necessity to execute general attorney by him in faovur of Sandeep Dutt Sharma, pursuant to which sale deed was executed in favour of Tanu Sharma wife of petitioner Raj Kumar Sharma on 29.04.2015 for a fictitious cash sale consideration of ₹1,01,25,000/- by becoming witness to the same. It is highly improbable that 1 acre 4 marlas of land purchased by petitioner Raj Kumar Sharma in the year 2013 in a sum of ₹1,10,00,000/- and another 1 acre purchased in the year 2014 in a sum of ₹1,35,00,000/-, totalling 16 kanals 4 marlas for ₹2,45,00,000/-, could be sold in a lesser price to his wife in the year 2015 for ₹1,01,25,000/-. The above facts falsify the entire transaction.

Having given thoughtful consideration to the rival submissions, this Court finds that petitioners do not deserve the concession of

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anticipatory bail for the reasons to follow.

Considering overall above facts and circumstances of the case narrated above by learned counsel for the complainant and non-finding of Hari Mohan Sharma, a whistle blower, this Court finds that there is some fraudulent intention of the petitioners in execution of sale agreements, one after the other, general attorney, sale deed in favour of Tanu Sharma petitioner No.1 in CRM-M-3331 of 2020 and every time in crores of rupees mentioned in sale agreements, sale deeds etc. The petitioners are definitely required for custodial interrogation to enquire as to from where they arranged such a huge amount in crores in cash, their source of income at the relevant time and *modus operandi*.

Dismissed.

February 28, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

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