

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

**CRM-M-53301 of 2019
Date of Decision:-17.02.2020**

Shakuntla

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Amit Kumar Jain, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

JASGURPREET SINGH PURI J.(Oral)

Petitioner-Shakuntla has filed the present petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 335 dated 04.9.2019, under Sections 406, 420, 467, 468, 471 and 506 IPC, registered at Police Station Civil Line Jind, District Jind.

Learned counsel for the petitioner has argued that the present FIR has been registered against the petitioner on false and frivolous grounds as the matter is of civil nature. He has contended that the subject matter of the case is that there was an agreement to sell of the property for an amount of Rs.5,80,000/- on 10.8.2010 for which the last date was fixed for 25.8.2010. Thereafter the complainant Sushil had filed a civil suit for specific performance, which was decreed ex-parte on 28.1.2013.

Thereafter, an execution petition was filed on 08.3.2013. Since it was an ex-parte decree, an application for setting aside the order was moved, which was allowed on 11.8.2016 and the suit was restored. Thereafter vide order dated 22.2.2017 the suit was decreed on merits in favour of the complainant and on 31.5.2017 the complainant filed an execution of the said decree. He has further submitted that even the sale deed was executed in this regard but one another person, namely, Rajesh Kumar had filed an application for setting aside the decree on the ground that the property in question was sold to him and he was the owner of the property. Thereafter, the sale deed, which was executed in favour of the complainant was set aside and the objection of Rajesh Kumar was upheld. He has therefore submitted that the evidence is subjudice before the Civil Court where rights of the parties are to be decided and there is no need of custodial interrogation in the present case.

Per contra learned State counsel has argued that the petitioner has admittedly taken consideration of Rs.5,80,000/- and had executed two agreements to sell, one with Sushil and another with Rajesh and that the money is with her since the year 2010 and therefore, her custodial interrogation is required. He has further submitted that it is not disputed that the civil suits are pending before the learned trial Court but he states that she has committed cheating and therefore also her custodial interrogation is required.

I have heard learned counsel for the parties and gone through the records.

It is an admitted case where two agreements to sell were

allegedly executed by the petitioner but with regard to the same civil suits are pending in the Courts and in one of the case even the suit was decreed and the sale deed was executed which was thereafter set aside on the basis of an application/objection filed by one Rajesh. On the whole it appears that the subject matter may be a case of civil dispute in nature and therefore for the purpose of considering the application for anticipatory bail it is to be seen as to whether at this stage is there any likelihood of tampering with evidence of the record or not. The plea taken by learned State counsel that the custodial interrogation is required because she had already taken Rs.5,80,000/- would also not sustain at this stage because even if the police is able to recover Rs.5,80,000/- then that money is to be paid to whom is yet to be decided as it is a matter which is still subjudice.

Considering the totality of circumstances, the present petition is allowed and the order dated 13.12.2019 is hereby made absolute.

February 17, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No