

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

CRM-M-54508-2019
Date of decision:23.1.2020

HEMANT SHARMA

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Piyush Kant Jain, Advocate
 for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Navmohit Singh, Advocate
for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in case registered vide FIR No.208 dated 21.5.2019 under Sections 406, 420, 506/34 IPC, registered at Police Station Hisar City, District Hisar.

2. The FIR was registered at the instance of Smt. Gaytri Devi, wherein it has been alleged that her husband had been serving Indian Navy, and that after his retirement they sold their land measuring 15 acres in the year

2012 in their native village Kikrala and went to Madhya Pradesh to buy land where her husband met Santosh, property dealer who showed some land to them and later introduced complainant's husband to Hemant Sharma (petitioner). A deal was struck by complainant's husband for purchase of land and an amount of ₹15 lacs was transferred from the bank account of the complainant into bank account of Hemant Sharma on 26.9.2012. The deal was struck for purchase of land measuring 110 acres at the rate of ₹1.25 lacs per acre which had been settled orally. It is further alleged that subsequently on 15.10.2012 another amount of ₹65 lacs was transferred to the account of Hemant Sharma from the account of the complainant and yet another amount of ₹65 lacs was deposited in the account of Hemant Sharma through RTGS. It is thus alleged that a total amount of ₹1 crore 45 lacs was paid to Hemant Sharma. It is further case of the prosecution that when the complainant and her husband again met Hemant Sharma at village Chhattarpur after about 10/15 days, he assured to get sale deeds registered after harvesting season is over. It is further alleged that subsequently complainant's husband namely Om Parkash kept on visiting Madhya Pradesh frequently and entered into separate agreement with Avdesh for purchase of land measuring 300 acres. It is alleged that pursuant thereto land measuring 225 acres was transferred to complainant's husband but the remaining 75 acres had not been transferred till date and Avdesh had thus defrauded complainant's husband in this manner.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in fact no agreement had ever been

entered into with the petitioner for sale/purchase of any property and that it is not believable that the complainant would have transferred huge amount to the petitioner without there being any written agreement in respect of the proposed sale of land. Learned counsel has submitted that in fact the complainant had entered into an agreement with Avdesh only on 30.7.2012 and that as per the said agreement (Annexure P-2), the said Avdesh was to facilitate sale of land by various small land owners in favour of the complainant's husband and that the amount which had been transferred in the account of the petitioner had in fact been transferred for the said purpose as the petitioner happened to be relative of Avdesh.

4. It has further been submitted that falsity of the allegations would be evident from the fact that although the agreement in question is alleged to have been executed in the year 2012, the present FIR came to be lodged in the year 2019 i.e. after a delay of 7 years. Learned counsel for the petitioner has further submitted that pursuant to the agreement dated 30.7.2012 the complainant's husband had admittedly been transferred land measuring 291.4 acres in December 2012 itself as had been found during the course of investigation by the police and as has also been deposed by the complainant in her affidavit dated 18.9.2019 which is referred to in reply filed by State to bail application filed before Trial Court (Annexure P-6).
5. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that it is a case where separate agreement had been entered into between the vendee Om Parkash and the petitioner Santosh and with Avdesh and that while the agreement with

Santosh was oral, the agreement with the Avdesh had been made in writing. Learned State counsel has submitted that the agreement with Santosh, although oral, cannot be doubted as huge amount of ₹1 crore 45 lacs had been transferred through bank pursuant to the said agreement. It has further been submitted that said amount had been deposited in the account of the petitioner as the petitioner is none-else but brother-in-law of said Santosh.

6. Learned State counsel has further submitted that the fact that separate sale consideration, pursuant to agreement dated 30.7.2012 with Avdesh had been paid, stands duly established from the bank statement of the complainant's husband from wherein a transfer of an amount of ₹1 crore 40 lacs to the bank account of Advesh is duly established apart from cash withdrawal an amount of ₹1 crore 37 lacs during the period in question. It has thus been submitted that the receipt of an amount of ₹1 crore 45 lacs by the petitioner cannot be said to be in respect of agreement dated 30.7.2012 with Avdesh.
7. I have considered rival submissions addressed before this Court. The complainant has fully established the withdrawal of an amount of ₹2 crores 77 lacs from the bank account including bank transactions of ₹1 crore 40 lakhs in the account of Avdesh leaving much to be explained on the part of the petitioner regarding receipt of ₹1 crore 45 lacs in his account.
8. In view of the aforesaid discussion, it is borne out that the complainant's husband had been deprived of huge amount of ₹1 crore 45 lacs by the

petitioner, the transfer of which is duly reflected from the bank account of complainant's husband as the same was made through bank transactions/RTGS. The fact that there is delay in lodging FIR or that no civil suit has been filed would not absolve the criminal liability which would be attracted in the given facts and circumstances of the case. The petition, as such, is sans merit and is hereby dismissed.

9. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

(GURVINDER SINGH GILL)
JUDGE

23.1.2020
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No