

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 17.03.2020

1. CRM-M-55641-2019 (O&M)

Ajay Gupta

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-10771-2020 (O&M)

Teja Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Karan Jund, Advocate
for the petitioner (in both cases).

Mr. M.S. Nagra, AAG, Punjab.

Mr. Jasdeep Singh Gill, Advocate
for the complainant (in both cases).

ARVIND SINGH SANGWAN, J.

Prayer in both these petitions is for grant of anticipatory bail in

FIR No.134 dated 15.11.2019 under Sections 406, 419, 420, 465, 467, 468, 471, 474, 120-B IPC, registered at Police Station Mullanpur, District SAS Nagar (Mohali).

Learned counsel for the petitioners submits that as per allegations in the FIR, registered at the instance of complainant Ramesh Kumar Saini, the accused persons (11 in number), including petitioners Ajay Gupta and Teja Singh, in conspiracy with each other, entered into an agreement to sell in favour of complainant qua the land, which was, in fact, shamlat land of Gram Panchayat and by posing it to be the land owned by co-accused Gurdial Singh, Harcharan Singh, Daljit Singh and Harbaksh Singh along with other accused persons, who are properly dealers and alleged GPA holders of the aforesaid persons, allured the complainant to part away Rs.30.00 lacs as earnest money.

Learned counsel for the petitioners has argued that in fact, both petitioners Ajay Gupta and Teja Singh, who are arrayed as accused No.7 & 11 respectively, are property dealers. It is further argued that both the petitioners had only helped the parties to enter into the agreement to sell and they are not the beneficiaries. It is also argued that as per the FIR, an amount of Rs.1.00 lac was paid to Sanjeev Kumar and Rs.3.00 lacs were paid to petitioner Teja Singh by co-accused, who received total amount of Rs.30.00 lacs, as earnest money from the complainant. Learned counsel has thus argued that no offence against the petitioners is made out, therefore, they are entitled to concession of anticipatory bail.

It is worth noticing here that vide order dated 30.12.2019,

petitioner Ajay Gupta was granted the concession of interim anticipatory bail and was directed to join the investigation, whereas the anticipatory bail application of petitioner Teja Singh is listed for the first time.

Learned State counsel, on instructions from ASI Sukhwinder Singh and assisted by learned counsel for the complainant, has, however, opposed the prayer for bail. It is submitted that in fact, all the accused persons, in conspiracy with each other, prepared a fake jamabandi, showing aforesaid accused to be owners of the property and thereafter, by further preparing GPA in favour of co-accused Rajinder Singh Bal and Kapur Singh, they have entered into an agreement to sell with the complainant. It is further submitted that in fact, the land belongs to Gram Panchayat of Village Dhanauran and in CWP No.7879 of 2010 filed by Gram Panchayat, this Court had granted stay on 03.05.2010 and later on, said petition was decided in favour of Gram Panchayat on 21.01.2013 and the accused persons were never owners of the property, which they proposed to sell and thus, by alluring the complainant to part away huge amount of Rs.30.00 lacs, they have committed the offence of cheating.

Learned counsel for the complainant has additionally argued that all the accused persons, in conspiracy with each other, by preparing fake jamabandi and representing to the complainant that co-accused Gurdial Singh, Harcharan Singh, Daljit Singh and Harbaksh Singh are owners of the property, who have allegedly executed GPA in favour of Rajinder Singh Bal and Kapur Singh, have cheated the complainant. It is further submitted that during an inquiry conducted by the police, co-accused Sanjeev Kumar told to

police about the amount paid to the present petitioners. It is also submitted that even during the investigation, when revenue officials were summoned as to why the orders of this Court are not implemented in the revenue record, they are evading the investigation.

Learned counsel for the complainant has further submitted that EO Wing (Cons), Mohali, before registration of the FIR, had conducted a detailed inquiry and on basis of the same, opinion of the DA (Legal) was taken and upon recommendation, SSP, Mohali directed to register the FIR, as the allegations of cheating, fraud and preparation of forged revenue record, are apparent. It is also submitted that the complainant has paid huge amount of Rs.30.00 lacs to the accused persons and the petitioners are interim beneficiaries, as they have received the amount from the other accused persons.

After hearing learned counsel for the parties, I find no ground to grant anticipatory bail to the petitioners.

As per the inquiry conducted by EO Wing (Cons), Mohali, which was approved by DA (Legal) and the SSP, Mohali, the present FIR was registered with the allegations that the petitioners and other accused persons forged and fabricated the revenue record pertaining to land belonging to Gram Panchayat, by showing co-accused Gurdial Singh, Harcharan Singh, Daljit Singh and Harbaksh Singh to be owners of the property and in such manner, they allured the complainant to part away Rs.30.00 lacs. Thus, from perusal of the FIR, it is apparent that without having ownership right of the land, the accused persons entered into an agreement to sell, with a clear

intention to cheat the complainant, who had paid Rs.30.00 lacs, therefore, it cannot be said that it is a case of civil nature.

Accordingly, both these petitions are dismissed.

17.03.2020
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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No