

CRM-M-1581-2021 (O&M)

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

**CRM-M-1581-2021 (O&M).
Decided on: June 28, 2021.**

Dhanraj @ Dhan Singh

.. Petitioner

VERSUS

State of Haryana and another

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Kamal Chaudhary, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

**Mr.Jagjot Singh, Advocate, for
Mr.Kunal Dawar, Advocate,
for respondent No.2.**

JASGURPREET SINGH PURI, J. (ORAL)

CRM-2445-2021

Prayer in the present application is for placing on record
copies of sale deeds Annexures P-4 and P-5.

For the reasons recorded in the application, the same is
allowed. Annexures P-4 and P-5 are permitted to be taken on record subject
to all just exceptions.

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Main Case

The present second petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.146 dated 28.6.2019, under Sections 420 and 406 of the IPC, registered at Police Station Tigaon, District Faridabad.

The allegations contained in the FIR lodged by the complainant, namely, Sanjay Kumar son of Ram Kishan Gupta against the petitioner, his wife and his brother-in-law are that the petitioner had got executed an agreement to sell with the complainant on 19.8.2016, a land measuring 2 kanals 8 marlas when in fact the petitioner had already sold the said land to different persons by two sale deeds in the year 2013. However, the petitioner allegedly took Rs.32,34,000/- from the complainant as full and final sale consideration and, therefore, the petitioner has allegedly committed a fraud upon the complainant.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case because the petitioner never executed any agreement to sell any land to the complainant and it is not in dispute that the petitioner had sold some part of the property comprising of 2 kanals and 12 marlas in the year 2013 vide Annexures P-4 and P-5. He has submitted that it is further not disputed by the petitioner that the petitioner was owner of the remaining land and the subject matter of the present alleged agreement was pertaining to 2 kanals and 8 marlas only and, therefore, the petitioner was the owner at the time of the agreement. He has further submitted that there was no agreement with the complainant

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but the petitioner had taken a loan of Rs.12 lacs from the complainant which he had already returned and the complainant has now misused the said transaction and has got lodged the present FIR against the petitioner. Learned counsel has further submitted that even assuming for the sake of arguments that the petitioner had entered into an agreement with the complainant still the said agreement was allegedly entered into in the year 2016 and later on the complainant has also filed a civil suit for specific performance against the petitioner in the year 2018 which is still pending before the learned trial Court and in which defence evidence is being led. He has further submitted that the petitioner has categorically taken a stand in the written statement filed in the civil suit that there was no agreement to sell and the amount of Rs.12 lacs was pertaining to taking of loan only and had nothing to do with the property. He has further submitted that the present FIR is an abuse of the process of law because at the most it could be a civil dispute which has been given a criminal flavour by the complainant. He has further submitted that there was an inordinate delay in lodging of the FIR particularly in view of the fact since the year 2018 the subject matter of the dispute is already pending in civil Court as the complainant has already filed a suit for specific performance which is pending before the learned Civil Judge.

Learned counsel for the petitioner has further submitted that vide order dated 6.4.2021, this Court had granted interim protection to the petitioner and had also directed him to appear before the investigating officer and join the investigation. He has submitted that in pursuance of the

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aforesaid order, the petitioner has already joined the investigation and has cooperated with the investigation process and therefore, learned counsel for the petitioner has prayed for the grant of anticipatory bail.

On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana, on instruction from SI Mohinder Singh, has submitted that the petitioner has already joined investigation in pursuance of the order passed by this Court and has cooperated with the investigation process. He has further, on instructions, submitted that the petitioner is not required for custodial investigation. He has, however, submitted that the recovery of the disputed amount is yet to be made.

Mr.Jagjot Singh, Advocate for Mr.Kunal Dawar, Advocate, who has caused appearance on behalf of added respondent No.2 -complainant has submitted that the petitioner has committed a fraud upon the complainant and even money has not been paid back to the complainant and, therefore, the petitioner does not deserve the concession of anticipatory bail. However, learned counsel for complainant - respondent No.2 has not disputed the filing of the civil suit for specific performance by the complainant which is pending before the learned Civil Judge.

I have heard learned counsel for the parties.

The basic dispute in the present case pertains to the allegations that the petitioner has received an amount of Rs.32 lacs in pursuance of the agreement to sell in the year 2016 but he did not execute the sale-deed nor did he return the money. However, it is an admitted position that the year of the said alleged agreement (although denied by the

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petitioner) was in the year 2016 and the present FIR has been lodged after an inordinate delay of about 3 years. It is also not in dispute that the complainant himself has filed a suit for specific performance against the petitioner and the same is pending in the Court of Civil Judge wherein the petitioner has taken a categorical stand that he never executed the agreement to sell and has rather taken a loan of Rs.12 lacs as loan from the complainant which he has already returned back.

Without expressing anything on the merits of the dispute, at this stage of consideration of anticipatory bail, it appears that the matter pertains to some civil dispute regarding which civil litigation is pending. Furthermore, the State has taken up a categorical stand that the petitioner has already joined investigation and is fully cooperating with the investigation process and is not required for custodial investigation. This Court does not wish to express anything on the merits of the dispute but for the purpose of deciding of anticipatory bail, the aforesaid factors are taken into consideration.

Therefore, in view of above, the present petition is allowed and the order dated 6.4.2021 is hereby made absolute.

June 28, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No