

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

208

CRM-M-15814-2021 (O&M)

Date of Decision: 07.10.2021

Desh Raj ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ashit Malik, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Mahavir Singh.

Mr. Balvinder Sangwan, Advocate, for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.82 dated 14.03.2021 at Police Station Sector 31, Faridabad, under Sections 406/420/506 IPC.
2. At the time of issuance of notice of motion, the following order was passed:

“Counsel for the petitioner herein would contend that the complainant is relying upon an agreement to sell dated 10.02.2013 wherein, a flat was to be transferred in the name of the complainant. The complainant had purportedly received an amount of Rs.33 lacs and balance was to be paid at the time of registration of the sale deed. Counsel for the petitioner herein denies the execution of the said agreement to sell by contending that his blank papers have

been misused. Even otherwise, no suit for specific performance has been filed based on the said agreement to sell. It is argued that at best it could be termed as a civil dispute and not a case where there is any intention to play fraud upon the complainant.

Notice of motion.

At this stage, Ms. Deepshikha Chauhan, AAG Haryana, who is appearing through the medium of video conferencing, accepts notice on behalf of the respondent-State.

Adjourned to 07.10.2021.

Meanwhile, the petitioner is directed to join the investigation within a period of one week and on his doing so, in the event of arrest the petitioner be released on interim bail to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.”

3. Learned counsel for the petitioner has submitted that it is a case, which could be, at best, termed as a civil dispute inasmuch as even as per the allegations in the FIR, the petitioner has not honoured the agreement pertaining to sale of property or that even after having entered into a compromise, he has not paid the agreed amount of Rs.28 lakhs.
4. Opposing the petition, learned State counsel assisted by the counsel for the complainant has submitted that from the facts and circumstances of the case, it is clear that the very intention of the petitioner right from the day one was to cheat the complainant and as such, no case for grant of anticipatory bail is made out. Learned

State counsel has further submitted that it was in the year 2013 that an agreement was entered into between the complainant and the petitioner and once such an agreement had been entered into, the very fact that he sold the property to somebody else despite having taken huge amount as earnest money, goes to show his intention to cheat the complainant. Learned State counsel has further submitted that although the petitioner has joined investigation, but he is not cooperating inasmuch the amount received by him from the complainant has not been returned.

5. I have considered rival submissions addressed before this Court.
6. Having regard to the facts and circumstances of the case, it will be debatable as to whether the facts would attract criminal liability or as to whether it is merely a case of civil liability. In any case, since the petitioner is stated to have joined investigation and the matter mainly pertains to documentary evidence, the petition is accepted and the interim directions issued by this Court vide order dated 09.04.2021 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

07.10.2021

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**