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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29166-2021

Date of Decision: 01.11.2021

Satender Singh

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sushil Jain, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 438 Code of Criminal Procedure for grant of anticipatory bail in a case FIR No.132 dated 13.04.2021 under Sections 406, 420, 467, 468, 471 and 120-B IPC, 1860 registered at Police Station Sadar Gohana, District Sonapat. The petitioner apprehended his arrest at the hands of Police, in the above FIR.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 27.07.2021, whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Learned counsel contends that the property measuring 1482 sq.yards owned by Krishna wife of Ghanshyam was, in fact, sold to the petitioner by way of an agreement to sell dated 19.05.2011 (Annexure P-2), but the formal sale deed was never executed and subsequently on the basis of the same, the petitioner had executed an agreement to sell in favour of Ishwar on 23.11.2011. According to him, when the property in

question was sold by Krishna in favour of wife of Ishwar in November, 2020, the petitioner got lodged FIR No.441 dated 09.12.2020 (Annexure P-4) and now the present FIR has been lodged relating to agreement to sell dated 23.11.2011 against the petitioner by Ishwar. He has further pointed out that in the entire transaction, the petitioner has suffered a wrongful loss and the property also stands transferred by Krishna in favour of the purchasers, including the wife of Ishwar through different sale deeds. According to him, the entire case of the prosecution is based upon documentary material and, therefore, the custodial interrogation of the petitioner may not be necessary.

Notice of motion for 01.11.2021.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the Police and joined the investigation. According to him, the petitioner cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel, who is assisted by Inspector Satbir Singh does not dispute this fact that the petitioner has joined the investigation, but presses for his custodial interrogation to recover the sale

consideration received by the petitioner.

At this stage, Mr. Jain, learned counsel has again pointed out that the petitioner is facing prosecution for the alleged commission of crime and the same are not the recovery proceedings. According to him, the petitioner is the victim of the alleged occurrence and a case FIR No.0441 dated 09.12.2020 (Annexure P-4) has already been registered on his complaint for the offence of cheating etc.

After hearing the learned counsel for the parties and considering the above background, this Court is of the opinion that the ground raised by the learned State counsel for custodial interrogation of the petitioner does not seem to be justified in view of the other attending circumstances as well as the nature of the dispute, which is primarily based upon documentary material. The right of the parties are yet to be determined, therefore, without meaning any expression or opinion on the merits of this case, this Court does not find it to be a fit case for the custodial interrogation of the petitioner.

Considering above, the petition is allowed and the interim bail granted by this Court vide order dated 27.07.2021 is made absolute.

01.11.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No