

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25178-2020 (O&M)

Date of decision: 16.03.2021

Rajbala

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Naresh Kumar, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.0576 dated 05.12.2019 under Sections 34, 406, 420, 506, 323 IPC, registered at Police Station Sonipat Sadar, District Sonipat.

While granting interim bail to the petitioner, following order was passed by this Court on 01.09.2020: -

“...Learned counsel for the petitioner submits that the petitioner had purchased the property from the original owners namely Satish Kumar and Kishore Kumar from khata No.33, as per the sale deed dated 16.09.2013. It is further submitted that prior to registration of the sale deed, agreement to sell dated 16.09.2013 was also executed by the aforesaid two persons and it was agreed

that possession of a specific portion, which was in possession of vendors of the petitioner, will be delivered. It is also submitted that in the subsequent sale deed dated 23.04.2018, specific share was purchased from khewat No.37 and khewat No.39 and at the time of execution of the sale deed, possession of the land, which was already in possession with her vendors, was handed over to the petitioner. Thereafter, the petitioner entered into an agreement to sell with the complainant on 16.09.2019 for the sale of aforesaid land and received Rs.12,85,000/- as earnest money.

Learned counsel for the petitioner further submits that in pursuance to the agreement to sell, the complainant wanted to raise loan from HDFC Bank and upon verification of title of the petitioner, the bank sanctioned the loan in favour of the complainant. It is further submitted that when the complainant started raising construction over the property, which was in possession of the petitioner and was handed over to the complainant, one Roshani filed a civil suit against vendors of the petitioner and in the said suit, while deciding an application under Order 39 Rules 1 & 2 CPC, on 13.01.2020, the aforesaid two persons made a statement that they will not raise any construction over the land comprising in khewat No.37 till partition of the disputed land. It is also submitted that though the statement will be bound only qua Satish Kumar and Kishore Kumar, who may still be left with some share in the property, however, neither the petitioner nor the complainant was arrayed as defendant in the

aforesaid civil suit and therefore, the petitioner is contemplating to move an appropriate application for vacation of stay.

Notice of motion.

On asking of the Court, Mr. Sumit Jain, Addl. AG, Haryana accepts notice on behalf of the respondent-State and submits that the petitioner has obtained huge amount of Rs.12,85,000/- as earnest money and as per report of the Patwari, the petitioner is not owner of the property.

Mr. Jasbir Mor, Advocate, learned counsel for the complainant has additionally argued that civil suit filed by one Roshani against Kishore Kumar and Satish Kumar is in fact in collusion with the petitioner to stall the construction of the complainant, however, it is not disputed that on the basis of agreement to sell, the bank has sanctioned the loan in favour of the complainant.

List again on 26.11.2020.

In the meantime, the petitioner is directed to appear before the Investigating Officer within a period of 10 days to join investigation and he shall be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

- 1. He shall make himself available for interrogation by a police officer as and when required;*
- 2. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to*

the Court or to any police officer; and

3. He shall not leave India without previous permission of the Court.

The DSP, Sonipat is directed to file an affidavit, after verifying the fact as to how it is stated by the Patwari/Investigating Officer that the petitioner is not owner of the property, when two sale deeds dated 16.09.2013 and 23.04.2018 support the claim of the petitioner.

The Court of Civil Judge (Junior Division), Sonipat, where the aforesaid civil suit filed by Roshni Dahiya is pending, is also directed to re-decide the application for stay after impleading the petitioner as well as complainant as party and by granting them opportunity to plead their case.

The petitioner and complainant will be at liberty to move an appropriate application for being impleaded as party within a period of one week from today.

In view of the COVID-19 situation, it will be open for the Civil Court to hear the arguments either through video conferencing or by asking written synopsis. The application will be decided on or before 16.11.2020...”

Learned counsel for the petitioner submits that in pursuance of the aforesaid order, the petitioner has joined the investigation and is not required for any further investigation.

Learned State counsel has filed the status report by way of affidavit of Deputy Superintendent of Police, Sonipat in the Court and the same is taken

on record and on instructions from the Investigating Officer, has not disputed the factual position and states that the petitioner is no more required for any further investigation.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 01.09.2020 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

16.03.2021
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No