

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101)

CRM-M-27848 of 2020

Date of Decision: 05.03.2021

Sampuran Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Ms. Rishma Verma, Advocate, for the petitioners.
Mr. Sidakmeet Singh Sandhu, AAG, Punjab

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

By this petition filed under the provisions of Section 438 of the Cr.P.C., the petitioners seek the concession of 'anticipatory bail, upon FIR no.06, dated 06.01.2020, having been registered at Police Station Kamboj, District Amritsar Rural, alleging therein the commission of offences punishable under the provisions of Section 420 and 120B of the IPC.

On 15.12.2020, the following order had been passed by this court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Despite the order of this court dated 8.10.2020, directing counsel for the petitioners to place on record the agreement of sale, that has not been done, with learned counsel for the petitioners submitting that in fact the agreement was with the person in whose favour it was executed, i.e. the complainant.

Though it would be very difficult to believe that the proposed vendor of the land did not even keep a copy of the agreement, however,

learned counsel having pointed to the enquiry as has been made a part of the FIR itself (copy Annexure P-1), the dispute actually seems to be with regard to non-payment of the mortgage amount existing on the land proposed to be sold by the petitioners to the complainant, the amount of the mortgage being Rs.7.79 lakhs.

Upon query to her, learned counsel submits that the petitioners are willing to redeem the said mortgage and thereafter, if the balance consideration as remains to be paid in terms of the agreement of sale, is paid by the complainant, the petitioners would execute a sale deed in her favour.

Notice of motion.

Mr.Rana Harjasdeep Singh, learned DAG, Punjab, accepts notice at the asking of the court.

The complainant in the FIR, i.e. Harvinder Kaur wife of Kanwaljit Singh, resident of house no.213, Bhullar Avenue, Amritsar, is ordered to be impleaded as respondent no.2 in the petition, with notice also ordered to be issued to her, returnable on 22.1.2021.

Dasti also.

(It is however, made clear that service of notice by dasti process shall be effected while taking all precautions as are necessary during this period of Covid-19 pandemic, including distancing and wearing of mask etc.)

A gazetted officer is directed to file a reply to the petition on behalf of the respondent-State by the next date of hearing.

In the meanwhile, in view of the aforesaid statement made by learned counsel for the petitioners, the petitioners are directed to join investigation within one week and upon them so joining if they are sought to be arrested, they shall be released on bail, on their furnishing adequate

bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

They shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioners in investigation, they would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join them in investigation, in terms of the order of this court.

It is made clear that any request for an adjournment made on the next date of hearing by learned counsel for the petitioners, would result in immediate vacation of the interim order.”

Thereafter, on 29.01.2021, the following order had been passed by this court:-

Case heard via video conferencing.

Pursuant to the order dated 22.01.2021, the report of the Registry states to the effect that notice issued to counsel for respondent no. 2 was duly served upon him by way of email.

However, he has not joined the video conference.

Learned State counsel however submits that though the petitioner joined investigation pursuant to the order dated 15.12.2020, recoveries are still to be effected from them.

For learned counsel for respondent no. 2 to come and make any contentions that he wishes to in view of what was recorded in the order dated 15.12.2020, adjourned to 05.03.2021.

Interim order to continue, till the next date of hearing.

To be shown in the urgent motion list.”

Today also, none has appeared for the complainant in the FIR, i.e. respondent no.2, even on a second call, i.e. both in the pre-lunch session and post lunch session.

Learned State counsel again reiterates that though the money is to be recovered from the petitioners, but otherwise they have joined investigation.

That being so, without making any comment at this stage on whether the money is recoverable or not from the petitioners, since the petitioners are stated to have joined investigation and the complainant is also not responding to the notices issued, this petition is allowed, with the interim order dated 15.12.2020, granting interim bail to the petitioners, made absolute on the same terms and conditions.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of his/her remedy as per law.

05.03.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No