

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(205)

CRM-M-35952-2021

Date of Decision : November 25, 2021

Sukhdev Singh

..Petitioner

Versus

State of Punjab

..Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harpinder Singh Jalal, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Sudesh Sahi, Advocate, for the complainant.

HARSIMRAN SINGH SETHI J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No.49 dated 23.04.2021 registered under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station Sidhwan Bet, District Ludhiana (Rural).

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 02.09.2021. Order dated 02.09.2021 is as under:-

“Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail in respect of FIR No. 49 dated 23.04.2021, registered under Sections 406, 420 IPC at Police Station Sidhwan Bet, District Ludhiana (Rural).

Learned counsel for the petitioner argues that no ingredient of Section 420 IPC is attracted in the present case

as on the date when the agreement to sell was executed between the petitioner and complainant, admittedly the petitioner was owner of the land in question and it was only after the agreement to sell was executed, on the basis of the judgment of a Competent Court of Law dated 05.10.2016, a share out of the sold land, went to the sisters of the petitioner. Learned counsel for the petitioner further argues that at the most it can only be treated as a case for return of the amount of Rs. 18 lacs, for the land which has been sold in excess of the share of the petitioner. Learned counsel for the petitioner submits that there is nothing to be recovered from the petitioner in the present case and the petitioner is ready to join the investigation and co-operate with the same.

Notice of motion.

Mr. Dhruv Dayal, learned Senior Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State is not in a position to rebut the aspect noticed here-in-before as he does not have instructions in this regard but submits that retaining the money by the petitioner of the excess land sold beyond his ownership proves the intention to cheat as the petitioner did not inform the complainant that there was a litigation pending qua the land, which was agreed to be sold.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only question before this Court is whether the custodial interrogation of the petitioner is necessary in the facts and circumstances of this case. Nothing is to be recovered from the petitioner and the allegations are on the basis of documents, which were already on record even at the time of registration of FIR. The purpose of investigation will be achieved in the present case if petitioner is directed to join

the investigation and cooperate with the same.

As the petitioner has undertaken to join the investigation and co-operate with the same, he has made out a case for the grant of anticipatory bail.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That 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 the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 25.11.2021.

It is, however, made clear that after the petitioner joins the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed .”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Rajwinder Pal Singh, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioner undertakes that petitioner

will join investigation and also cooperate with the investigating agency in

case he is required for the same in future as well.

In view of the above, the order dated 02.09.2021 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

November 25, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No