

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

137

CRM-M-36170 of 2021
Date of Decision : 03.09.2021

Rajiv Singh Rathore

..Petitioner

Versus

State of Haryana

...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana/

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioner in FIR No.132 dated 28.05.2021 registered under Sections 406, 420, 506 and 120-B of the IPC at Police Station Bhondsi, District Gurugram.

Learned counsel for the petitioner argues that in the present case, the actual allegations are that the property was being sold by the owner in a fraudulent manner to the complainant and the petitioner has only been involved in the present case being a property dealer, who acted as a go between the buyer and seller. Learned counsel for the petitioner submits that the fraudulent act on the part of the seller cannot be attributed to the petitioner, hence, the petitioner be granted the benefit of anticipatory bail.

Learned counsel for the petitioner further submits that the co-accused

namely, Shambir has already been granted the benefit of anticipatory bail by this Court vide order dated 27.07.2021 passed in CRM-M-27155 of 2021.

Learned State counsel submits that in fact the petitioner is one who is selling properties in the said area and has defrauded many people. Learned State counsel further submits that in a detailed enquiry, which has been conducted by the police, the involvement of the petitioner has also come on record, which shows that buyers were duped of their hard earned money in connivance with the petitioner. Learned State counsel submits that the custodial interrogation of the petitioner is very necessary to trace out the money, which has been taken from the buyers and also the fact as to how many other people have already been duped of in a similar fashion by the petitioner.

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

The petitioner is claiming himself to be a property dealer. The property dealer is one who assures that property deal in which the said property dealer is involved, is genuine. Prima facie, it is the duty of the property dealer to check the documents of the property before executing the property deal and, hence, the petitioner cannot escape the liability that the property in question was being sold to the complainant without there being any ownership of the same with the seller. Further more, in the present case, sum of Rs.30,00000/- have been taken from the complainant, who is a Government official on the pretext of selling property to him without there being any title or possession over the said property of the seller. It is highly unimaginable that the petitioner, who is a property dealer remained unaware

of the said fact especially, in view of the facts and evidence, which has already come on record during investigation so far.

The argument of the learned counsel for the petitioner that the co-accused namely, Shambir has already been granted the benefit of anticipatory bail by this Court on 27.07.2021 cannot come to the rescue of the petitioner for the reason that co-accused, Shambir was only a witness and a witness prima facie is not supposed to know the facts and the duty of the witness is to ensure that buyer and seller are executing the document in the presence of the said witness.

Keeping in view the facts and circumstances noticed hereinbefore, the custodial interrogation of the petitioner is necessary to find out the truth as to how the money which has been taken from the buyers prima facie by defrauding them, has been routed through and how the petitioner is the beneficiary of the same.

In view of the above, no ground is made out to allow the present petition seeking anticipatory bail to the petitioner.

Dismissed.

September 03, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No