

202 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SMRITI
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CRM-M-41951-2020
Date of Decision: 01.03.2021

AASHISH GOEL ... PETITIONER
VS.
UNION TERRITORY OF CHANDIGARH .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Kunal Kukreja, Advocate, for the petitioner.

Mr. Rajiv Anand, APP for U.T.Chandigarh.

Mr. Deepak Aggarwal, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

Reply by way of affidavit of Sh. Sukhraj Katewa, Deputy Superintendent of Police, EOW, Sector-17 Chandigarh, has been placed on record.

Through instant petition, the petitioner is seeking regular bail in case bearing FIR No. 458 dated 23.10.2009 under Sections 420/406/120-B IPC registered at Police Station Sector-39, Chandigarh.

Precisely, the allegations against the petitioner are to the effect that he had offered 1443 square feet flat in the project, namely, Balaji Enclave in Barotiwala, Himachal Pradesh. The flat was offered at a price of Rs.24,53,100/-(plus Rs.1,00,000/- extra for covered parking). The petitioner had assured guaranteed returns for a period of five years and to pay monthly rental amounting to Rs.26,000/- and on the completion of five years, the petitioner will buy back the flat from the complainant at the price of Rs.31,85,000/-. The complainant had invested in five units and had paid and invested an amount of Rs.1,18,63,300/-. It was assured that the entire

project will be ready for occupation in eighteen months. However, neither any construction was raised nor possession was delivered nor any amount was paid by the petitioner to the complainant.

It has been stated by learned counsel for the petitioner that a compromise (Annexure P-2) was executed between the parties on 20.02.2020 vide which the total liability was settled at Rs. 1 Crore, 05 lakhs. The petitioner has already paid a sum of Rs.30 lakhs and eight installments of Rs.9 lakhs each were to be paid. However, the remaining installments could not be paid as the petitioner has not been released on bail. Counsel further submits that the petitioner is in custody for the last 13 months and conclusion of trial is likely to take some time.

On the contrary, it has been argued by learned counsels for the respondent-U.T.Chandigarh and complainant that the petitioner has duped the complainant for a huge amount to the tune of about Rs.2 Crore. The petitioner has also been convicted in 03 separate cases by the State Consumer Disputes Redressal Commission, U.T.Chandigarh, wherein, he has been sentenced to undergo rigorous imprisonment for a period of 2 ½ years besides payment of fine in each case. Furthermore, the petitioner was declared a proclaimed offender way-back in the year 2012 and his arrest was effected on 21.02.2020. Besides the wife of the petitioner, namely, Sumita, has also been declared proclaimed offender in the instant case.

It is significant to note that in the instant case, the petitioner has extracted huge amount from the complainant by playing deception. He has also been convicted in 03 separate cases by the State Consumer Commission, U.T.Chandigarh. However, his application for suspension of sentence has been dismissed by the Commission in terms of the order

dated 19.01.2021. Besides, the petitioner has evaded the process of law for a long period of 10 years. It is not a case of the petitioner that he himself surrendered in the Court. Rather, the petitioner was arrested in the instant case after he remained proclaimed officer for a period of 08 years. In such circumstances, the possibility of petitioner fleeing from justice in the event he is released on bail cannot be ruled out. Moreover, the wife of the petitioner is also absconding and has been declared proclaimed offender though her application for pre-arrest bail was dismissed by this Court as back as on July 17, 2010. The complainant has only received a sum of Rs.30 lakhs and there is nothing to suggest that besides that any other significant amount has been paid to the complainant.

In these circumstances, no ground is made out to extend the concession of bail to the petitioner.

Dismissed.

01.03.2021
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No