

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-50573-2021 (O&M)

Date of Decision:09.12.2021

Darshna Devi and another

.....Petitioners

Vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. K.M.Vohra, Advocate,
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Manoj Kumar, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.32, dated 18.09.2021, having been registered at Police Station Sector-7, Panchkula, alleging therein the commission of offences punishable under the provisions of Sections 406/420/467/468/470/471/506/120-B of the IPC.

On 03.12.2021 the following order was passed by this court, with the petitioners not having been admitted to interim bail (with in fact notice of motion also not issued, though with learned counsel for the complainant having come present even so):-

“Case heard via video conferencing.

Learned counsel for the petitioners, as also for the complainant (who appears before notice of motion has been issued), would take instructions as to whether the petitioners are willing to pay interest on the principal amount as was paid by the complainant to them and return the amount within a reasonable period to the complainant, the

allegation against the petitioners being that after entering into an agreement of sale with the complainant and having received money to the tune of Rs.10.00 lakhs plus from him, they not only did not get the sale deed executed but also mortgaged the land to a bank and are also alleged to have obtained subsidies etc. against said land from the Horticulture Department.

Obviously in the aforesaid circumstances, simply because a civil dispute may also be arising, prima facie at least I would to see no ground to entertain this petition on account of the fact that the allegation against the petitioners is that they deliberately, after entering into an agreement of sale, also mortgaged the same land. Hence, the inference would only seem to be too obvious (at least for the purpose of this petition).

Adjourned to 7.12.2021.”

Today, learned counsel for the complainant submits that the original agreement of sale being with the investigating officer, he has produced in court a photocopy thereof (seen to be dated 19.03.2019), signed by petitioner no.1, Darshna Devi, as also by the purchaser whose name is seen to be Rajinder Singh (the complainant in the FIR).

A perusal of paragraph 7 of the said copy of the agreement shows that indeed it is stated therein that if the sellers (petitioners) back out from the bargain then they would pay double the amount of the earnest money received by them to the purchaser, by way of “liquidated damages”, with the purchaser (the complainant in the FIR), having the option of either accepting such damages or to get the property transferred/executed through a sale deed through court of law.

Learned counsel for the complainant having taken instructions from the complainant, submits that the complainant is actually interested in

getting the sale deed executed in terms of the agreement of sale and therefore, if he accepts the principal amount from the petitioner, that would come in the way of him getting any sale deed executed by way of any civil suit filed; and consequently, the petitioner, who is not even offering to pay double the amount of money received by him, and in any case with him seeking one years' time to pay even the principal amount (alongwith interest thereupon), the intention of the petitioner is very obvious.

Learned counsel for the petitioner on the other hand points to the FIR itself wherein the complainant is shown to be aggrieved of only the loss of Rs.10.20 lakhs already paid by him, in as much as it is stated therein that “the legal action be taken against the above mentioned husband wife and get my Rs.10,20,000/- recovered from them. My life and liberty should be protected and strict legal action be taken against the accused so that they do not repeat such cheating and conspiracy with someone else”.

Learned counsel for the petitioner further submits that with the petitioner willing to join investigation and paying Rs.10.20 lakhs alongwith interest within 6 months, there would be no reason to not admit him to bail even in terms of Section 438 of the Cr.P.C.

Having considered the matter, what is to be repeated by this court from the order earlier passed, is that the petitioner is alleged to have mortgaged the land that he had agreed to sell to the complainant vide the aforesaid agreement of sale, with him also stated to have taken a subsidy from the Department of Horticulture, with the petitioners' intention, *prima faice* at least, being that he did not intend to honour the agreement, but only to obtain money from the complainant (with that observation made by this court for the

purpose of this petition only and not in the context of the merits of the case, which obviously would be gone into as per the investigation conducted and the evidence led before the trial court, if it comes to that stage).

Hence finding no merit in this petition by which the petitioners seek to be admitted to anticipatory bail, it is dismissed.

December 09, 2021

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES
Whether Reportable : NO