

CRM-M-2152-2022

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

CRM-M-2152-2022 (O & M)

Date of decision: 16.05.2022

Vishal Garg and another

...Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Vinod Ghai, Sr. Advocate with
Mr. Deepak Sabharwal, Ms. Kanika Ahuja,
Mr. Edward Augustine George and Mr. Hrithik Chaudhary,
Advocates, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Mr. Puneet Bali, Sr. Advocate with
Mr. R. Kartikeya, Ms. Mahima Gill and
Ms. Bhavna Chaudhary, Advocates,
for the complainant.

Mr. S.K.Jain, Advocate and
Mr. G.P.Singh, Advocate,
for the complainant.

HARNARESH SINGH GILL, J.

CRM-18261-2022

Allowed as prayed for. Affidavit of complainant-Kewal Garg
is taken on record.

CRM-M-2152-2022

Through this petition, the petitioners seek anticipatory bail in
case FIR No.615 dated 23.12.2021, registered under Sections 406, 420,
465, 467, 468, 471 and 120-B IPC and Section 82 of the Registration Act,
1908, at Police Station Zirakpur, District SAS Nagar.

Learned Senior Counsel for the petitioners has contended that

CRM-M-2152-2022

pursuant to the order dated 19.01.2022 passed by the Coordinate Bench, the petitioners have joined investigation.

Learned Senior Counsel for the petitioners has further contended that there was no explanation put forth by the complainant for the delay in lodging the present FIR and that the petitioners had purchased the property from M/s Sai Associates after paying them Rs.15 lakh for each plot, and that as such, the petitioners are *bona fide* purchasers. He has further contended that so far as the allegations of the complainant that the sale consideration of Rs.60 lakh, as mentioned in the sale deed in favour of M/s Sai Associates, was never paid to him and as such, the said sale deed was not valid, are concerned, the same are not sustainable for the reason that he had not taken any step to get the sale deed(s) cancelled. Yet further, it is contended that the sale deed in dispute was executed on 10.08.2020, but the present complaint was made on 08.11.2021, for registration of the case i.e. after a period of about one year and three months.

Learned Senior Counsel for the petitioners has further contended that civil proceedings qua the same subject matter, as mentioned above, are already pending before the Civil Court at Derabassi and *ad interim* injunction was granted in favour of the petitioners on 20.12.2021, whereas the present FIR was registered on 23.12.2021, which shows an apparent collusion of the investigating agency with the complainant, and that a civil dispute has been given a colour of criminal case so as to arm-twist the petitioners with an intent to dispossess them from their properties.

On the other hand, learned State counsel has submitted that during the course of investigation, the petitioners were found innocent and

CRM-M-2152-2022

have been declared as such in the present case, vide case Diary dated 18.03.2022.

Learned Senior Counsel for the complainant, while opposing the grant of bail to the petitioners, has submitted that they in collusion with owners of M/s Sai Associates and Gurmeet Singh had cheated the complainant by forging documents to grab his valuable property. It is also contended that the case set up by the petitioners that they are *bona fide* purchasers for a valuable sale consideration, is not tenable by virtue of stand taken by co-accused Gurmeet Singh before this Court in CRM-M-4703-2022 and CRM-M-9473-2022, duly supported by affidavit thereof, that he had executed and registered 13 sale deeds dated 10.08.2020 in favour of M/s Vinmehta Films Pvt. Ltd., on the asking of its directors namely, Vishal Garg and Deepika Garg (present petitioners). He has further contended that despite the observations made by this Court while dismissing the anticipatory bail of co-accused Gurmeet Singh, to the effect that his custodial interrogation was a must to unearth the racket of illegal sale/purchase of the land by the accused persons, the investigating agency seems to have completely swayed in favour of the accused persons. It is also contended that the prosecution ought to have investigated the role of Gurmeet Singh and his connivance with the other accused, but till date, he has neither been arrested nor any action taken by the prosecution to unearth the racket.

Learned Senior Counsel for the complainant has further contended that the alleged authority letter dated 05.08.2020, in favour of co-accused Gurmeet Singh, was prepared in the back date so as to prepare a

CRM-M-2152-2022

false defence by the beneficiaries in their favour. It is further contended that the complainant had sold the land measuring 3 bighas 17 biswas to M/s Sai Associates for a sale consideration of Rs.60 lakh, but within a span of 10 days, the same had been shown to be transferred in the name of M/s VinMehta Films Private Limited, for a sale consideration of Rs.1.95 crore.

Learned Senior Counsel has yet further contended that the investigation had been conducted in an unfair, tainted and biased manner and the investigating agency has wrongly drawn a conclusion declaring the petitioners as innocent in the present case. It is further contended that the complainant had been cheated by the petitioners in connivance with the co-accused, but case of forgery has been given a colour of civil dispute, and that the civil suit has been filed to create a smoke-screen to negate the culpability on the part of the petitioners. Moreover, the investigating agency has proceeded with in a lackadaisical manner in order to favour the accused.

I have heard the learned counsel for the parties.

Vide order dated 19.01.2022 passed by a Coordinate Bench, the petitioners had been granted *ad interim* pre-arrest bail and directed to join investigation. The relevant extract of the said order would read as under:

“As per the case of the prosecution, the first informant was/is owner of an agricultural land measuring 14 Bighas located in village Nagla, Zirakpur. He sold 3 bighas and 7 biswas of land to M/s Sai Associates vide registered sale deed dated 31.07.2020, against total sale consideration of Rs.60,00,000/-, which was allegedly paid through a cheque. It is alleged that the partners of M/s Sai Associates subsequently

CRM-M-2152-2022

expressed their inability to pay the amount and took back the cheque while promising to get the sale deed cancelled. The petitioners are alleged to have purchased 13 plots through 13 registered sale deeds from M/s Sai Associates, on 10.08.2020. The prosecution alleges that the petitioners and M/s Sai Associates have played fraud on them.

The learned counsel representing the petitioners contends that the petitioners have purchased the property from M/s Sai Associates after paying them Rs.15,00,000/- for each plot. He submits that the petitioners are not directly involved in the present case.

Notice of motion for 07.02.2022.

On the request of this Court, Mr. H.S.Sullar, Deputy Advocate General, Punjab, accepts notice on behalf of the State. Mr. Sunney Deep Jouneja and Mr. Gagan Pratap Singh Bal, Advocate, accepts notice on behalf of the first informant.

After having heard the learned counsels for the parties at some length, it is considered appropriate to permit the first informants and state of Punjab to file their detailed reply.

In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

It is expected that the State of Punjab will also file a detailed reply before the next date of hearing with a copy in advance to the learned counsel for the petitioners.”

In response to the aforesaid order, status report dated 25.03.2022, by way of affidavit of the Superintendent of Police (PBI), District SAS Nagar (Mohali), was filed in the Court. A relevant extract of

the same would read as under:

CRM-M-2152-2022

“10. XXX

I. XXX

II. *That Vishal Garg and Deepika Garg have no relation/transaction with Kewal Krishan Garg nor has any writing or conversation with Kewal Garg regarding these showrooms have come to light during investigation. The form of Vishal Garg and Deepika Garg is a bonafide purchaser, who has purchased the said property from M/s Sai Associates after paying sale consideration through cheque.”*

III. *That in case, Kewal Garg felt that the registries are not correct and valid then, he could have taken recourse through courts of law. In case, the complainant Kewal Garg was not paid the sale consideration by Satish Gupta, then he could have initiated the legal proceedings at that time, but he did not initiate any action at that time and now, after the lapse of about one year and 03 months, the partners of M/s Sai Associates are absconding and their whereabouts are unknown.*

IV. XXX

V. *That from the investigation conducted, no role of the petitioners Vishal Garg and Deepika Garg in the commission of offences of the present case/FIR has come to light and the actual facts of the present case/FIR can be ascertained only after the arrest of accused etc., who are absconding. As per the revenue record, no fake, false or forged document was found to have been used at the time of execution of registry by Satish Gupta in favour of Vishal Garg and therefore, the offences under Sections 465, 467, 468, 471 IPC were not found to be made out. Accordingly, it had been recommended by the SIT for declaring the petitioners as innocent in the present case/FIR and to delete the offences under Sections 465, 467 468 471 IPC from the array of sections of the present case/FIR after seeking legal*

CRM-M-2152-2022

opinion from the ld. DDA (legal), SAS Nagar. The true translated copy of the report of the SIT dated 11.03.2022 is being annexed herewith as Annexure R-1/T for the kind consideration of this Hon'ble Court.

11. XXX

12. *That it is respectfully submitted that consequently, the petitioners were declared innocent in the present case/FIR and the offences under Sections 465, 467, 468, 471 IPC were deleted from the array of sections of the present case/FIR, vide case diary dated 18.03.2022 and the special report in this regard, was prepared and sent to the learned Area Magistrate and senior police officers. The investigation of the present case/FIR is underway and strenuous efforts are being made to take the same to its logical conclusion.”*

A perusal of the reply would make it clear that during the course of investigation, the petitioners have been declared innocent in the present case, vide case diary dated 18.03.2022.

Learned State counsel submits that the petitioners are now not required for any further investigation.

So far as the contentions raised by the learned Senior Counsel for the complainant with regard to the involvement of the petitioners in the alleged crime and the investigation conducted by the police favouring the accused, are concerned, the same cannot be dealt with, at this stage, particularly when the prosecution agency has declared the petitioners innocent.

Keeping in view the facts and circumstances of the present case; without discussing the facts of the case in minute details and without expressing any opinion on the merits of the case, I find merit in this petition and the same is allowed and the order dated 19.01.2022 granting interim

CRM-M-2152-2022

bail to the petitioners, is made absolute, subject to the conditions laid down in Section 438 (2) Cr.P.C.

Needless to say that the outcome of CRM-M-13921-2022, shall follow its logical course.

16.05.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No