

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-5029-2022(O&M)
Date of decision : 03.03.2022

Phire Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Saurabh Savara, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

CRM-7600-2022

This is an application under Section 482 Cr.P.C. for placing on record agreement to sell as Annexures P-7 to P-11.

Application is allowed as prayed for.

Annexures P-7 to P-11 are taken on record subject to all just exceptions.

CRM-M-5029-2022

This is a first petition under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in FIR no.533 dated 09.12.2020 registered under Sections 420, 406, 379 and 120-B IPC at Police Station Dabua, Faridabad, Haryana.

Learned counsel for the petitioner has submitted that in the present case, the complaint has been filed by one Rajesh with whom there is

the FIR, reference has been made to one Sube Singh and one Sunita who are stated to have purchased plots measuring 200 square yards and 100 square yards, respectively, through the present petitioner and through property dealer Om Parkash. It has also been submitted that although in the FIR there is only mention about two plots regarding which an agreement of sale with the present petitioner has been stated to have been executed but it has been clearly pointed out that the petitioner along with co-accused Om Parkash Bhati had entered into 5 agreements to sell, with different persons, for total land measuring 760 square yards. Apart from the said two agreements with Sube Singh and Sunita, it has been stated that the petitioner and said Om Parkash Bhati had also entered into agreement with Brijpal, Sumit and Rameshwar. The said agreements have been annexed as Annexures P-7 to P-11 and it has been argued that perusal of the same shows that the petitioner had not stated that he was owner of the land and had stated that he was the agreement to sell holder in the same. It has further been stated that the petitioner and said Om Parkash Bhati have agreements to sell in their favour, which have been annexed as Annexure P-2, P3 and P-4 and the same are with respect to the lands measuring 4 kanals, 1 kanal 17 marlas and 3 kanal 13 marlas respectively, and the said lands come to more than 760 square yards, regarding which agreements to sell have been entered into by the petitioner and Om Paraksh Bhati as sellers. It has been stated that the present FIR has been registered after a delay of 5 years from the execution of the said agreements and the purchasers had entered into the agreements to sell with their eyes open, thus, the dispute at hand is primarily a civil dispute. It has also been stated that the entire case is based upon documentary evidence, thus, the custodial interrogation of the petitioner is

not required. It has been argued that the petitioner has never taken possession from the persons in whose favour the agreement to sell had been executed, nor he has demolished any wall. It has also been stated that the petitioner is not involved in any other criminal case.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and has submitted that he is fully prepare to argue the matter and assist this Court. He has opposed the present petition for anticipatory bail and has submitted that in the present case, the petitioner was not the owner of the land and in spite of the same, he had entered into the said agreements to sell of the said pieces of land. It has been pointed out that a perusal of the agreement would show that under the said agreements, the entire consideration has been received by the petitioner and co-accused Om Parkash Bhati.

This Court has heard learned counsel for the parties and has perused the paper book.

A perusal of the FIR would show that the same has been registered on the statement of one Rajesh alleging that he, along with one Vedpal had purchased one plot measuring 100 square yards out of land measuring 2 kanal 10 marlas through General Power of Attorney Amar Singh. To the said transaction, the present petitioner is not privy. In the entire FIR, there is reference to one Sube Singh and Sunita who have been stated to have purchased 200 square yards and 100 square yards plots respectively, through the present petitioner and Om Parkash. The case of the prosecution is that the petitioner is not owner of the said land and yet he had sold said land. Learned counsel for the petitioner has very fairly submitted that in addition to the said two persons, three more persons namely Brijpal,

Sumit and Rameshwar had also entered into agreement to sell with the present petitioner and the said Om Parkash Bhati and in all, land measuring 760 square yards was sold to the above said five persons. Regarding all the above five persons, the agreements to sell have been annexed as Annexures P-7 to P-11. A perusal of the said agreements to sell would show that it had been stated therein that the petitioner was an agreement to sell holder (not owner) of the land regarding which the said agreements were duly executed. The fact that the petitioner had, agreements to sell in his favour with respect to land more than 760 square yards, is apparent from the agreements dated 02.05.2014 (Annexures P-2 to P-4) as per which the present petitioner and Om Parkash Bhati had entered into agreements to sell in their favour with respect to lands measuring 4 kanal, 1 kanal 17 marlas and 3 kanals 13 marlas, respectively. It is thus apparent that on the basis of agreements to sell executed in favour of the present petitioner and Om Prakash, they had apparently entered into further agreements to sell with the purchasers of the plots in question and the fact that they were only agreement to sell holders and not the owners of the said plots, had been mentioned in the said agreements. The present FIR has been registered after the delay of 5 years and the present dispute has civil tappings and the petitioner is not involved in any other case. It is not the case of the prosecution that it was the petitioner who had tried to take forcible possession of the said property. The entire case is based on documentary evidence and thus the custodial interrogation of the present petitioner is not required.

Keeping in view the above said facts and circumstances, the present petition for anticipatory bail is allowed and in the event of arrest, the petitioner is ordered to be released on bail subject to his furnishing

personal bonds and surety to the satisfaction of Arresting / Investigating Officer. The petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of Cr.P.C.

It is made clear, in case, the petitioner fails to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

March 03, 2022
Davinder Kumar

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