

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

207

CRM-M-10182-2021 (O&M)

Date of Decision: 05.07.2022

SARITA CHAUHAN

...Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

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

Mr. Surender Singh, AAG, Haryana.

Mr. Gaurav Kathuria, Advocate for the complainant.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.461 dated 19.08.2020, registered under Sections 420, 406, 447 and 120-B IPC, at Police Station City Ballabgarh, District Faridabad, Haryana.

Reply by way of an affidavit dated 23.02.2022 of the Assistant Commissioner of Police, Crime, Faridabad, filed on behalf of the respondent-State, in Registry, is taken on record.

Learned counsel for the petitioner submits that the allegations contained in the FIR are totally false; that as per the complainant himself, a full and final agreement to sell was entered between the complainant and the petitioner regarding plot measuring 99 square yard, for a sale consideration of Rs.5.5 lakh; that it is not explained as to why the sale deed was not executed, especially when there was no encumbrance upon the property in question; that moreover, the amount of Rs.5.5 lakh was transferred by the complainant in the

account of the firm on 22.04.2019, whereas the alleged agreement to sell was executed on 30.4.2019; that no person of an ordinary prudence would advance the entire sale consideration before execution of the agreement to sell/sale deed and that the said factual position clearly stipulates that the transaction between the parties was of a different nature and not regarding the sale of the plot. It is further submitted that the version recorded in the FIR gets falsified from a contradictory stand taken by the complainant in the legal notice dated 18.05.2020, issued under Section 138 Negotiable Instruments Act, 1881, wherein the total sale consideration was stated to be Rs.16 lakh and that the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 was dismissed as withdrawn by the complainant on 3.9.2020. Still further, it is submitted that co-accused, namely, Naresh Kumar, has already been granted the concession of bail by the learned trial Court vide order dated 25.01.2021.

Per contra, while opposing the prayer for grant of anticipatory bail to the petitioner, learned State counsel assisted by learned counsel for the complainant, does not dispute the factum that the petitioner was the owner of the property in terms of the sale deed dated 29.04.2019 and that the agreement to sell was executed on 03.05.2019. They, however, submit that after payment of full and final sale consideration, the complainant had constructed a house on the land in dispute.

Learned counsel for the complainant further submits that though, as per the mutual understanding between the petitioner, her

husband and the complainant, the date for registration of the sale deed was kept open, yet the fact remains that the petitioner executed a GPA in respect of the same property on 15.10.2019 in favour of one Nitin Kumar in Ghaziabad (UP), whereas the property is situated at Faridabad. Still further, it is submitted that Satvinder Chaudhary, who is a witness in the above said GPA, got executed a sale deed in favour of Savita Chaudhary wife of Subir Chaudhary on 17.10.2019, who is the relative of the petitioner.

I have heard the learned counsel for the parties.

Admittedly, the agreement to sell in question was executed between the parties and the sale consideration was also exchanged. Thereafter, complainant had constructed a house on the said land. However, instead of executing a sale deed pursuant to the agreement to sell dated 03.05.2019, the petitioner executed a GPA in favour of Nitin Kumar at Ghaziabad on 15.10.2019, whereas the property is situated at Faridabad. Further, Satvinder Chaudhary, who is a witness in the above said GPA, got executed a sale deed on 17.10.2019 in favour of Savita Chaudhary, who is the relative of the petitioner. All these facts show a pre-planned conspiracy hatched by the petitioner in connivance with the co-accused. Thus, the custodial interrogation of the petitioner is a must.

In view of the above, no case is made out to grant the concession of anticipatory bail to the petitioner.

Dismissed.

05.07.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*