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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M No.16694 of 2021 (O&M)

Date of Decision: 06.09.2022

Kamlesh

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M No.26033 of 2022

Dinesh and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Vaidant Arora, Advocate for
Mr. Sunil Kumar Bhardwaj, Advocate
for the petitioners in both the petitions.

Mr. Apoorv Garg, DAG, Haryana
for the respondent-State.

Mr. Ramnish Puri, Advocate
for the informant-complainant.

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MEENAKSHI I. MEHTA, J. (Oral)

CRM No.9495 of 2022

This application has been moved on behalf of the applicant-
complainant for placing certain documents on the record, as Annexures
A-1 to A-4.

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Notice in the application.

Learned counsel appearing for the non-applicant/petitioners and learned State counsel accept the notice.

Heard.

Keeping in view the reasons as mentioned in this application, the same is allowed and Annexures A-1 to A-4 are taken on the record.

**CRM-M No.16694 of 2021 &
CRM- M No.26033 of 2022**

Both these petitions are being taken up together for discussion and adjudication as the petitioners herein seek the relief of anticipatory/pre-arrest bail in the same criminal case arisen out of the FIR bearing No.77 dated 18.03.2021 registered at Police Station Civil Line Jind, under Sections 406, 420 & 506 read with Section 34 IPC.

2. Bereft of unnecessary details, the allegations, as levelled by informant Surender Kumar in the subject FIR, are that on 07.03.2019, the petitioners had entered into an agreement with him, through their co-accused Pawan Kumar, to sell their land measuring 06 kanals 08 marlas to him for the sale consideration of Rs.50 lac and had also received a sum of Rs.10 lac from him as the earnest money and the date for execution and registration of the sale-deed was stipulated as 07.01.2020. Thereafter, he paid another amount of Rs.09 lac to the petitioners through the cheque. However, the petitioners did not appear before the competent authority on the agreed date for the said purpose and later-on, he came to know that petitioner Monika had executed a transfer deed qua her share in the said

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land in favour of her brothers, i.e petitioners Umesh and Dinesh, on 04.03.2020 and petitioner Kamlesh had attested the same as a witness and she (Kamlesh) had also stolen the pages, except page No.1, of the original agreement by taking it from him on the pretext of getting its photocopy prepared and the petitioners have neither refunded the money to him nor have got the sale-deed executed and registered in pursuance of the said agreement.

3. It is worth-while to mention here that vide the order dated 26.04.2022 and the order dated 06.07.2022 as passed in **CRM-M No.16694 of 2021** and in **CRM-M No.26033 of 2022**, respectively, the Co-ordinate Bench had extended the relief of interim bail to the petitioners with the direction to them to join in the investigation.

4. Today, learned State counsel, on the instructions from ASI Mukesh Kumar from the above-said police station, apprises the Court that though in compliance of the afore-mentioned orders, the petitioners had joined in the investigation but they did not co-operate the Investigating Agency and their custodial interrogation would be required for the purpose of the recovery of the stolen pages of the original agreement to sell and the above-said amount as well.

5. Faced with this situation, learned counsel appearing for the petitioners submits that he would prefer to address the arguments touching the merits in both the petitions.

6. Status-report filed on behalf of the respondent-State in **CRM-**

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-M No.16694 of 2021, by way of the affidavit of Deputy Superintendent of Police, City Jind, is already available on the file and the same is taken on the record.

7. Learned State counsel submits that the afore-said status-report be also read as such for the purposes of the connected petition bearing **CRM-M No.26033 of 2022** also.

8. I have heard learned counsel appearing for the petitioners as well as learned State counsel (assisted by learned counsel for the informant) in both these petitions and have also perused the files carefully.

9. Learned counsel appearing for the petitioners contends that there is delay of about six (06) months in lodging the FIR and moreover, it was the informant himself, who had failed to appear before the concerned registering authority on the stipulated date, i.e 07.01.2020, to perform his part in respect of the said agreement to sell.

10. Per-contra, learned State counsel argues that the petitioners did not get the sale deed executed and registered in accordance with the said agreement despite their having received the total amount of Rs.19 lac from the informant nor did they refund the said amount to him and keeping in view the nature of the offence as committed by them, both the present petitions be dismissed.

11. As regards the contention qua the delay in lodging the FIR, the same would be the subject matter for consideration and adjudication by the trial Court at the appropriate stage after appreciation and evaluation of the

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evidence that would be led on the record during the course of the trial and its effect on the case of the prosecution cannot be ascertained at this stage, while deciding the instant bail petitions.

12. So far as the contention regarding the informant having not appeared before the competent authority on the said agreed date to get the sale-deed executed and registered is concerned, it is pertinent to mention here that Annexure A-2 is the translated version of the application stated to have been moved by the informant to Tehsildar, Jind, on 07.01.2020, i.e said stipulated date, for marking his presence. Rather, these are the petitioners who have not placed any material on the file, at this stage, to show that they had also appeared before the afore-said authority for doing the needful on their part in terms of the said agreement.

13. Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioners, this Court is of the considered opinion that they (petitioners) do not deserve the relief of anticipatory/pre-arrest bail. Resultantly, both the petitions in hand stand dismissed accordingly.

06.09.2022
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*