

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-16209-2022

Date of decision : 9.5.2022

Vijay Kumar @ Vijay Mehta

... Petitioner

VERSUS

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. A.S.Manaise, Advocate, for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

KARAMJIT SINGH, J. (Oral)

Prayer is for grant of anticipatory bail to the petitioner in criminal case having FIR No.143 dated 30.7.2021 registered under Sections 420, 406 IPC at Police Station Shahpurkandi, District Pathankot.

FIR in this case has been registered on the basis of the complaint lodged by complainant-Rajan Sharma to the police in which he alleged that the petitioner entered into an agreement to sell his property situated in village Manwal for consideration of ₹ 7,70,000/- with the complainant on 16.12.2018 and the sale deed was to be executed by 10.5.2019. The petitioner received ₹ 16 lakhs, out of total sale consideration of ₹ 17 lakhs i.e. ₹ 9,94,000/- vide cheque bearing No.000033 dated 10.12.2018 drawn on HDFC Bank, Dinanagar, District Gurdaspur through RTGS and ₹6,06,000/- through cash. Later on, the complainant came to know that the petitioner had already sold the said property to some third party and thus, the petitioner committed cheating and fraud against the complainant.

Counsel for the petitioner contends that no such agreement to

sell dated 16.12.2018 was executed by the petitioner. Counsel further contends that there was an oral agreement between the petitioner and Balinder Sharda, as per which, the petitioner took loan of ₹ 55 lakhs from said Balinder Sharda and at that time, the petitioner handed over some stamp papers and cheques as a security to Balinder Sharda; that the petitioner returned an amount of ₹ 47,30,000/- to Balinder Sharda in instalments and finally, an amount of ₹ 7,70,000/- remained to be paid and in this regard, agreement dated 18.9.2019 (Annexure P-5) was executed between the petitioner and Balinder Sharda and at that time, it was agreed that the cheques and stamp papers and other documents received from the petitioner and his wife would be returned by Balinder Sharda to them on receipt of balance amount of ₹ 7,70,000/-. Counsel for the petitioner further contends that later on, aforesaid stamp papers were misused by Balinder Sharda in connivance with complainant-Rajan Sharma and they fabricated agreement to sell in question dated 16.12.2018 purported to be executed by the petitioner in favour of complainant-Rajan Sharma. Counsel for the petitioner has also relied upon agreement dated 11.12.2018 (Annexure P-4) executed between complainant-Rajan Sharma and the petitioner and another agreement dated 18.9.2019 (Annexure P-5) executed between Balinder Sharda and Vijay Kumar and his wife Aarti. Counsel further contends that the petitioner has been falsely implicated in this case and he is ready to join the investigation as earlier this Court vide order dated 22.4.2022, stayed arrest of the petitioner.

The bail application is contested by the State counsel who submitted that on verification, documents Annexures P-4 and P-5, are found to be not genuine. State counsel further contends that serious allegations are

required.

I have considered the submissions made by the counsel for the parties.

As per State counsel, documents Annexures P-4 and P-5 have been fabricated by the petitioner. Further, counsel for the petitioner has taken plea that the petitioner took loan of ₹ 55 lakhs from one Balinder Sharda and to secure the said loan, the petitioner deposited with him certain cheques and stamp papers which were later on, misused by the complainant in connivance with Balinder Sharda to fabricate agreement to sell in question dated 16.12.2018. As per counsel for the petitioner, aforesaid agreement regarding loan of ₹ 55 lakhs was an oral agreement. It is highly improbable that Balinder Sharda gave such a huge amount of ₹ 55 lakhs to the petitioner without executing any document regarding the same. So defence put forth by the counsel for the petitioner appears to be highly improbable. The petitioner is facing serious allegations and if he is granted anticipatory bail, it will amount to throttling of the investigation at the very threshold. Further, this Court is of the view that for proper and effective investigation, custodial interrogation of the petitioner is required.

In view of above, no ground is made out to grant concession of anticipatory bail to the petitioner. Consequently, the present petition is dismissed. However, any observation made hereinabove is not to be construed as an expression of opinion on the merits of the case. Interim order regarding stay of arrest, of the petitioner stands vacated.

May 9, 2022

Paritosh Kumar

Whether speaking/reasoned

Whether reportable

(KARAMJIT SINGH)

JUDGE

Yes/No

Yes/No