

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

CRM-M-42842-2018 (O&M)

Date of decision: 28.04.2022

Niketan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sachin Mittal, Advocate for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. A.G. Haryana.

Mr. Akshay Kumar Jindal, Advocate for the complainant.

HARNARESH SINGH GILL, J.

Through the instant petition under Section 438 Cr.P.C., the petitioner seeks anticipatory bail in case FIR No. 173 dated 02.08.2018 registered under Section 380 IPC, at Police Station Bhondsi, District Gurugram.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that it was complainant-Parveen Kumar Raghav, who has committed a fraud with the petitioner by entering an agreement to sell dated 18.07.2018 in respect of plot/land measuring 500 sq. yards with the petitioner at the rate of Rs. 8,000/- per sq. yards; that the complainant had received a sum of Rs. 40 lakh in cash from the petitioner; that at a later stage, the petitioner came to know that the land in question was the subject matter of litigation and the complainant himself had purchased the same fraudulently; that when the petitioner asked the complainant to return

his earnest money, the complainant instead lodged a totally false case against the petitioner by concocting a story. It is further submitted that as per the FIR, the date of alleged occurrence was 26.07.2018, whereas the FIR was registered on 02.08.2018 and as per the call details of the petitioner as well as of the complainant, both of them were not present at the place of occurrence, as alleged and that the petitioner also filed a civil suit on 30.03.2022.

Vide order dated 28.09.2018 passed by a Coordinate Bench, interim protection was granted to the petitioner with a direction to join the investigation; that on 19.01.2022, the Coordinate Bench of this Court had directed the State to investigate the source of Rs.40 lakh, allegedly given by the petitioner to the complainant in pursuance of the agreement to sell dated 18.07.2018 and file a report and that later on vide order dated 7.2.2022, the matter was referred to the Mediation & Conciliation Centre to settle the matter amicably. However, the mediation has failed.

On 08.03.2022, it was submitted by the learned counsel for the complainant that the petitioner having had access to the office of the complainant, took away an amount of Rs.30 lakh from the office drawer and that thereafter, the complainant, had approached the brother of the petitioner, who assured them that the said amount would be returned. It was further submitted that the petitioner, who was an income tax payee, had failed to disclose the sources or any document to show the arrangement of the said amount of Rs.40 lakh and that no civil suit for specific performance had been filed by the petitioner till that date.

Today, learned counsel for the complainant submits that the civil suit now filed by the petitioner is an eye wash, as the agreement to sell was

executed on 18.07.2018 and the civil suit filed on 30.03.2022 is beyond the period of limitation.

Apart from that learned State counsel assisted by the learned counsel for the complainant, has drawn the attention of this Court towards the status report submitted by way of affidavits of the Assistant Commissioner of Police, Sohna, Gurugram, in compliance of the order dated 19.01.2022 passed by the Coordinate Bench. The relevant Para Nos. 3 and 4 of the status report dated 02.02.2022, would read as under:-

“3. That after the receipt of above mentioned order, the petitioner was issued notice by SI Dinesh Kumar, Crime Unit Sohna, Gurugram to provide the details as to from where the amount of Rs. 40 lakhs was arranged by him. Thereupon, the petitioner sworn an affidavit dated 28.01.2022, mentioning therein that he borrowed the amount of Rs. 9,60,000/- on 31.12.2015 from his maternal uncle namely Jagdev Singh by way of transaction from Punjab National Bank. Similarly, in the year 2014-2015, he borrowed the amount of Rs. 7,00,000/- from his maternal uncle namely Yuvraj Singh Chauhan. Further, he obtained Rs. 9,00,000/- from his mother namely Smt. Brij Bala Devi, who gave the said amount to the petitioner after selling her plot. He, thereby, received the amount of Rs. 25,60,000/- from the above named persons and gave the said amount to Parveen Kumar Raghav. The petitioner further stated that the amount of Rs. 13 lakhs was given by him to Parveen Kumar Raghav after withdrawing from his account, and that he collected Rs. 2 lakhs from other sources.

4. That the perusal of the documents revealed that the transactions have been made in the year 2015-16, whereas the amount has been allegedly given to the complainant by the petitioner in cash, at the time of agreement, in the year 2018, which does not appear to be justified. Further, the petitioner has failed to provide the details of Rs. 13 lakhs allegedly withdrawn by him from his account. He has also failed to provide the details regarding Rs. 2 lakhs allegedly

obtained by him from other sources. Thus, the petitioner could not satisfy the investigating officer about the amount of Rs. 40 lakh and could not provide the complete details of the sources from where the said amount was obtained. ”

I have heard the learned counsel for the parties and have gone through the paper-book.

There are specific allegations in the FIR against the petitioner. He has failed to disclose the sources or any document to show the arrangement of the said amount of Rs.40 lakh. A perusal of the aforesaid extracts would make it clear that the petitioner has failed to provide the complete details of sources from where the said amount was obtained. In the absence thereof, the stand of the petitioner that he had entered an agreement to sell with the complainant and paid the complainant a sum of Rs.40 lakh, falls flat.

In view of the above, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

28.04.2022

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No