

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35027-2022
Date of Decision: 11.10.2022

NAVTEJ SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CRM-M-36562-2022

DALJIT KAUR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. V.K. Kaushal, Advocate
for the petitioner.
In both the petitions.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

Mr. P.S. Sekhon, Advocate for the complainant.

JASJIT SINGH BEDI, J.

By virtue of this common order, this Court proposes to dispose of two petitions bearing No.CRM-M-35027-2022 titled as Navtej Singh Versus State of Punjab and CRM-M-36562-2022 titled as Daljit Kaur Versus State of Punjab as the same are arising out of the same FIR.

2. The prayer in the present petitions under Section 438 Cr.P.C. are for the grant of anticipatory bail in case bearing FIR No.110 dated

03.07.2022 registered under Sections 420, 120-B of the IPC with Police Station Gharinda, District Amritsar Rural, Amritsar.

3. The present complaint came to be filed against the petitioners and their son Jaspreet Singh with the allegations that the accused entered into an agreement to sell dated 10.10.2017 for land measuring 12 kanals in village Gharinda, Tehsil and District Amritsar for an amount of Rs.16 lakhs per acre with Renuka wife of Jaswant Kumar alias Billa. A sum of Rs.17 lakhs was paid in cash at the time of execution of the agreement to sell by the complainant-Pawan Kumar. The date of execution of the sale deed was 08.10.2018. However, the petitioners told the complainant party that the said area was mortgaged with the bank and therefore, the sale deed could not be executed before first clearing the loan amount. So a further sum of Rs.7 lakhs was paid to the accused by way of cheques. The date of the agreement was extended from 08.10.2018 to 08.04.2019. However, despite the execution of the agreement in favour of the complainant party, the accused-petitioners and their son Jaspreet Singh sold their said land to one Pritpal Kaur wife of Iqbal Singh vide sale deed dated 21.05.2019. On coming to know of the said fact when the complainant party approached the accused, they promised to refund Rs.24 lakhs along with fine but had not done so till date. In fact, the complainant party had their mobile phone call recording clearly establishing that the accused-petitioners had cheated the complainant party and usurped the amount of Rs.24 lakhs.

Based on the aforementioned allegations, the present FIR came to be registered.

4. When petitioner Navtej Singh's petition came up for hearing for the grant of anticipatory bail before this Court on 08.08.2022, the following order was passed:-

“The petitioner seeks grant of anticipatory bail in case bearing FIR No.110 dated 03.07.2022 registered under Sections 420, 120-B IPC at Police Station Gharinda, District Amritsar Rural, Amritsar.

The learned counsel for the petitioner submits that he wishes to explore the possibilities of a compromise.

Notice of motion for 07.09.2022.

On asking of the Court, Mr. Kirat Singh Sidhu, D.A.G, Punjab accepts notice on behalf of the respondent-State.

The parties are directed to appear before the Mediation and Conciliation Centre of this Court to explore the possibility of a compromise on 22.08.2022.

In the meantime, the arrest of the petitioner shall remain stayed.”

5. However, despite the matter having been referred to the Mediation and Conciliation Centre of this Court, no compromise could be effected between the parties because of which the matter has come up for hearing on the merits of the case today.

6. The learned counsel for the petitioner contends that so far as petitioner-Navtej Singh is concerned, he is simply a witness to the agreement to sell executed by his wife Daljit Kaur (petitioner in CRM-M-36562-2022) with the complainant-Pawan Kumar. He contends that there is an unexplained delay of 05 years in the registration of the present FIR. The allegations constitute a civil dispute which has been given the colour of a criminal case.

Even otherwise, a civil suit for possession by way of specific performance has been instituted against Daljit Kaur (petitioner in CRM-M-36562-2022). The petitioner was neither a party to the civil suit nor a party in the agreement to sell and since no case for custodial interrogation was made out, the petitioner deserved the concession of anticipatory bail.

As regards the case for grant of anticipatory bail to Daljit Kaur (petitioner in CRM-M-36562-2022) is concerned, it has been argued that the entire dispute is civil in nature and no case for custodial interrogation is made out. Since a suit for specific performance had already been filed, the registration of the present FIR was an abuse of the process of the Court. Even otherwise, it is the case of the petitioner that her signatures had been taken on blank papers and used to create the agreement to sell dated 10.10.2017.

7. Short replies dated 28.09.2022 have been filed on behalf of the respondent-State in both the cases by the learned State counsel by way of an affidavit of Mr. Manavjit Singh, PPS, Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural) and the same is taken on record. He has referred to the case file of the petitioner-Navtej Singh and Daljit Kaur (petitioner in CRM-M-36562-2022) to contend that the sequence of events would clearly show that the petitioners had committed the offence in question. They had received a sum of Rs.24 lakhs and instead of executing a sale deed in favour of the complainant party sold the said land to a third party i.e. Pritpal Kaur wife of Iqbal Singh. In fact, firstly a sum of Rs.17 lakhs had been taken at the time of execution of the agreement to sell after which, a further sum of Rs.7 lakhs was received by the accused persons by informing the complainant party that the loan which had been taken was to be repaid

before the sale deed could be executed. He contends that the allegations as set out in the FIR therefore, clearly make out a case of cheating and the custodial interrogation of the petitioners is required to not only effect the recovery of the money but also to take the case to its logical conclusion.

8. On the other hand, the learned counsel for the complainant contends that the present case is not one which is purely civil in nature. Apparently, the petitioners had the necessary *mens rea* to cheat the complainant party, which is apparent from the facts of the case. Initially they obtained a sum of Rs.17 lakhs in cash and thereafter, a further sum of Rs.7 lakhs was paid to them on the pretext that they had to clear the loan of the bank. Yet they went ahead and executed a sale deed in favour of Pritpal Kaur. Undoubtedly, Daljit Kaur (petitioner in CRM-M-36562-2022) executed the agreement to sell, however, Navtej Singh (petitioner in CRM-M-35027-2022) is her husband and a witness to the said agreement. Therefore, he cannot absolve himself of liability. He thus, submits that the petitioners are not entitled to the grant of anticipatory bail.

9. I have heard the learned counsel for the parties at considerable length.

10. Admittedly, the agreement to sell is dated 10.10.2017. The sale deed was to be executed by 08.10.2018 and a sum of Rs.17 lakhs was received by the accused party. On the pretext of clearing the loan amount on the land, a further sum of Rs.7 lakhs was received by the accused party on the basis of which the agreement was extended to 08.04.2019. Despite having received Rs.24 lakhs in total, the sale deed was executed in favour of Pritpal Kaur on 21.05.2019. The sequence of events clearly establish the necessary

mens rea on the part of the petitioners to commit the offence in question.

Further, civil and criminal proceedings can go on simultaneously.

11. In view of the aforementioned discussion and keeping in view the nature and gravity of the offences as also the fact that the recoveries are to be effected and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the present petition and the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

11.10.2022

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No