

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

207

CRM-M-40174-2021

Date of Decision: 06.07.2022

Bhupender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. P.S.Sullar, Advocate, for the petitioner.

Mr. Rahul Mohan, DAG, Haryana,
assisted by Inspector Rajesh Kumar.

Mr. N.S.Dadwal, Advocate, for
Mr. Sameer Dewan, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.361 dated 15.10.2020 at Police Station Sector 50 District Gurugram under Sections 406, 420, 506, 34 of Indian Penal Code, wherein offences under Sections 468 and 471 IPC were added later on.
2. At the time of issuance of notice of motion 27.09.2021, the following order was passed:

“The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.361 dated 15.10.2020 at Police Station Sector 50 District Gurugram under Sections 406, 420, 506, 34 of Indian Penal Code, wherein offences under Sections 468 and 471 IPC were added later on.

The FIR in question was lodged at the instance of Deepak, wherein he has alleged that he invests in properties and had purchased properties through the petitioner previously on 2-3 earlier occasions and that the said deals had been successful. It is alleged that the complainant also has financial transactions with the petitioner, who is otherwise a property dealer. It is alleged that the petitioner had introduced him to Poonam Gupta, Rajeev Gupta and Sanjeev Gupta, who represented that they have some property for sale and accordingly a deal was struck between the complainant and the said three persons and the complainant paid an amount of Rs.70 lakhs. The complainant alleged that despite payment of said amount of Rs.70 lakhs, the aforesaid persons did not execute any 'agreement to sell' and when the complainant demanded his money back, the same was not even returned to him.

Learned counsel for the petitioner submits that even if the allegations as levelled in the FIR are taken to be correct, the petitioner at best is a property dealer and, as such, a mediator and can be said to have introduced the complainant with Poonam Gupta, Rajeev Gupta and Sanjeev Gupta during the course of his professional dealings. Learned counsel submits that in case the land owners have committed any wrong or have cheated the complainant, the petitioner cannot be held liable in any manner.

Learned counsel further submits that even otherwise it is highly unbelievable that the complainant would have paid an amount of Rs.70 lakhs in cash and would not have got any agreement executed. It has further been submitted that since the co-accused, who are infact the vendors, have already been granted bail by this Court, the petitioner has a lesser role and, as such, deserves the same concession on ground of parity.

Notice of motion for 11.1.2022.

At this stage, Mr. Sameer Dewan, Advocate has put in appearance on behalf of the complainant and accepts notice on behalf of the complainant.

Learned counsel for the complainant has submitted that since the receipt regarding the amount in question had been executed by the petitioner and infact he had later also made a statement to the effect that the amount in question had been received by him, no case for grant of anticipatory bail is made out. It has also been submitted that the petitioner does not deserve any concession on grounds of parity.

I have considered the aforesaid submissions.

Having regard to the nature of allegations and the fact that there is no written agreement for sale of the property in question and also that the co-accused have been granted bail, this Court is of the opinion that the petitioner deserves the concession of interim bail at this stage.

As such, it is ordered that, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

3. Learned counsel for the petitioner has submitted that pursuant to passing of the aforesaid interim directions, there has been a substantial change inasmuch as other three co-accused, namely, Poonam Gupta, Sanjeev Gupta and Rajeev Gupta have been found innocent by the police. It has further been submitted that the petitioner was a mediator being a property dealer and that there is no such specific allegation in the FIR that the alleged amount of Rs.70 lakhs stated to have been paid in cash was handed over to the petitioner. It has been submitted that the petitioner at best had signed in the capacity of a guarantor and a mediator and that

since there is no specific or categorical allegation that he had received the said amount, he cannot be held liable in any manner.

4. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that the petitioner as well as other co-accused were hands in gloves with each other and that they had jointly received the amount in question. Learned State counsel has further informed that the receipt in question issued by the petitioner i.e. as a guarantor was got examined from FSL and upon examination, it has been opined that the same bears the signatures of the petitioner, necessarily indicating that the petitioner was part & parcel of the entire fraud. Learned State counsel has not disputed the fact that other three co-accused have already been found innocent. It has been informed upon instructions that pursuant to interim directions issued by this Court, the petitioner has since joined investigation.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the aforestated position, wherein the FIR does not specifically state that the amount in question had been handed over to the petitioner and apparently the petitioner was a mediator in the capacity of a property dealer and also the fact the other co-accused have already been found innocent, it will rather be difficult to accept that an amount of Rs.70 lakhs had been paid, which is not stated to have been paid through any bank transaction, but had allegedly been paid in cash. The petitioner in any case has joined investigation. The case is mainly based on documentary evidence. The receipt in question has already been got examined by FSL. In these circumstances, custodial interrogation of the

petitioner is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 27.09.2021 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

06.07.2022

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**