

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-43360-2021

Date of decision : 22.03.2022

Sukhmander Singh and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Karanjit Singh Gill, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

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

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.0003 dated 19.08.2021 registered under Sections 420, 406, 120-B IPC at Police Station NRI District Ferozepur.

On 28.10.2021, a coordinate Bench of this Court was pleased to pass the following order:-

“The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered against them vide FIR No.03, dated 19.8.2021, Police Station NRI District Ferozepur, under Sections 420, 406, 120-B IPC.

The FIR in question was lodged at the instance of Gurmail Singh, wherein it is alleged that in the year 2019, he had visited India and had contacted Sukhmander Singh through Harjinder Singh and the complainant Gurmail Singh

appointed Amrit Pal Singh as his attorney for the purpose of sale of his property situated at Village Kauni Kalan and it was agreed that after the sale of the property, Sukhmander Singh would deposit the sale proceeds in the account of the complainant. It is alleged that the accused on the basis of the said Power of Attorney sold land to Shinder Pal, Tarsem Singh and Amarjit Kaur at cheaper rates vide sale deeds dated 22.10.2019 and 25.11.2019, but have not deposited the amount in respect of the sale of the said land. It is further alleged that when the complainant approached the Panchayat regarding the said matter then Sukhmander Singh gave two cheques to the complainant. It is further alleged that another piece of land measuring 8 kanals was also sold to Sukhmander Singh in the month of March, 2020. Thereafter, when the cheques had been given by the accused were presented, but the same were dishonoured.

Learned counsel for the petitioner submits that the FIR has been lodged on the basis of false allegations and that in fact it is highly unlikely that the complainant would have entered into any transaction with the accused Sukhmander Singh or Amrit Pal Singh for sale of 8 kanals of land in case the said persons had earlier cheated the complainant. Learned counsel further submits that infact Gurmail Singh after executing the Power of Attorney in favour of Amrit Pal Singh on 16.10.2019 had also executed an agreement to sell dated 21.10.2019 (Annexure P-6) wherein Gurmail Singh specifically stated that he owns 90 kanals and 8 marlas of land in Village Kohni and had executed an agreement to sell the said land with Amrit Pal Singh and as per specific recital in agreement, the complainant had received the entire consideration from Amrit Pal Singh. Learned counsel has submitted that it is apparently a case where Gurmail Singh was residing abroad and wanted to sell his land and had nominated petitioner No.2 Amrit Pal Singh as his attorney for the same and infact had entered into some kind of agreement with said attorney and after taking amount in respect of the land had given him all the rights of the said land as would be

evident from the agreement to sell dated 21.10.2019 (Annexure P-6).

Notice of motion for 10.3.2022.

Meanwhile, 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 the 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.

28.10.2021 **(GURVINDER SINGH GILL)**
JUDGE”

Learned State counsel, on instructions from ASI Sukhdev Singh, has submitted that the petitioners have joined the investigation and are no longer required for further investigation.

Learned counsel for the complainant has opposed the present petition and has submitted that only Rs.38,25,000/- has been paid through cheque / bank transaction to the complainant out of the total amount of Rs.1,30,00,000/-.

Learned counsel for the petitioners, in rebuttal, has submitted that the present case is a case which has civil trappings and initially, the complainant had entered into agreement to sell dated 24.03.2018 (Annexure P-2) to sell land measuring 70 kanals 7 marlas with petitioner no.1. It has been submitted that perusal of said agreement would show that Rs.58,25,000/- was received by the complainant as earnest money. It has further been submitted that another agreement to sell dated 19.04.2018 (Annexure P-3) was also entered into by the complainant Gurmail Singh

would show that earnest money of Rs.10 lacs was paid to the complainant. It has also been submitted that the last date as per agreement (Annexure P-2) was 15.05.2019, and on 15.05.2019 petitioner no.1 had gone to the teshil office and even executed his affidavit (Annexure P-2 and P-3) but the complainant did not turn up. It has been stated that thereafter the complainant executed a general power of attorney dated 16.10.2019 (Anneuxre P-5) in favour of petitioner no.2 and also executed an agreement dated 21.10.2019 in favour of petitioner no.2 in which it was specifically mentioned that the total amount had been received by the second party with respect to the land measuring 90 kanals 8 marlas.

This Court has heard learned counsel for the parties and has perused the paper book.

It is not in dispute that the agreement to sell dated 21.10.2019 with respect to land measuring 90 kanals 8 marals includes the land measuring 70 kanals 7 marlas which was the subject matter of Annexure P-2 dated 24.03.2018. It is, thus, prima facie clear that as per agreement dated 21.10.2019, the entire amount for 19 kanals 8 marlas has been received by the complainant. It is the case of the petitioners that the power of attorney dated 16.10.2019 which has been executed in favour of petitioner no.2 was also executed on the asking of petitioner no.1. The said Amritpal Singh petitioner no.2 is not stated to be a relative of the complainant and thus execution of the said power of attorney of the agreement to sell dated 21.10.2019 indicates that the same was to transfer all rights of the complainant in favour of the petitioners. The plea of the complainant that certain amount of money has not been received is contrary to the written document dated 21.10.2019 (Annexure P-6). At any rate, the entire dispute

is based on documents and the petitioners have joined investigation and are not required for further investigation, the present petition for anticipatory bail is allowed and the interim order dated 28.10.2021 is made absolute.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

March 22, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No