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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41156-2020

Date of decision-02.02.2022

Harpal Singh

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Lovish Arora, Advocate for
Mr. Sanjeev K.Arora, Advocate for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr.DAG, Punjab.

None for respondent No.2.

MANOJ BAJAJ, J.

Complainant has filed this petition under Section 439 (2) Cr.P.C seeking cancellation of anticipatory bail granted to accused- Bhagat Singh (respondent No.2) vide order dated 10.11.2020 (Annexure P-3) passed by learned Additional Sessions Judge, Ferozepur in case FIR No.93 dated 15.10.2020 registered under Sections 420, 120-B and 34 Indian Penal Code, 1860 at Police Station Cantt. Ferozepur, District Ferozepur.

Learned counsel for the petitioner has argued that the allegations in the subject FIR pertain to the agreement to sell dated 07.07.2017 executed by accused Mohinder Pal Jain in favour of the

petitioner and pursuant to that a sum of Rs.3.5 lakhs was given as an earnest money. He submits that the sale deed in respect of the property was to be executed by 07.01.2020, but before that the owner mortgaged the said property to obtain loan of Rs.25 lakhs and in this way, the petitioner/complainant was cheated. He has pointed out that the property in question was initially owned by Bhagat Singh (respondent No.2), who had transferred it in favour of Mohinder Pal Jain on 03.07.2017. He submits that the concession of pre-arrest bail has been extended by the Court of Sessions to the accused Bhagat Singh erroneously, whereas his custodial interrogation is necessary. He prays for cancellation of bail granted to accused-Bhagat Singh.

In response to the notice of motion order passed on 09.12.2020, reply by way of affidavit of Barinder Singh, PPS, Deputy Superintendent of Police (City) Ferozepur on behalf of respondent No.1-State has been filed, wherein the factual background has not been disputed. However, it has been highlighted that the bail application filed by accused-Bhagat Singh was contested and after hearing the public prosecutor, the Court had extended the concession of anticipatory bail to the accused.

Learned State counsel has pointed out that it is a specific stand of official respondents that pursuant to the bail order, the accused had associated with the investigation, however, despite service no reply

has been filed on behalf of accused.

After hearing of learned counsel for the parties, this Court is of opinion that the entire case of the prosecution is founded upon the documentary material and the complainant had paid earnest money to the brother of respondent No.2, namely, Mohinder Pal Jain and his bail application is still pending before this Court. During the course of hearing, it is fairly conceded by learned counsel that respondent No.2 is being implicated on the basis of criminal conspiracy. Since the specific response has been filed by State that the accused joined the investigation and as it is not the case of the prosecution that the said accused did not cooperate during interrogation, the argument raised on behalf of complainant that his custodial interrogation is necessary has no merit as this ground can only be raised by the investigating officer.

Resultantly, petition is dismissed.

(MANOJ BAJAJ)
JUDGE

02.02.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No