

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

**CRM-M No.49370 of 2021
Date of Decision: 03.03.2022**

Ramesh Kumar

.....Petitioner.

Versus

State of Haryana

.....Respondent.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Ms. Aashna Gill, Advocate for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

Mr. Nonish Kumar, Advocate for the complainant.

MEENAKSHI I. MEHTA, J.

The petitioner herein seeks the relief of regular bail in the criminal case arising out of the FIR bearing No.322 dated 15.08.2021 registered at Police Station Kunjpura, under Sections 406 and 420 IPC.

Bereft of unnecessary details, the allegations, as levelled by complainant Karambir in the subject FIR, are that on 22.11.2017, the petitioner and his co-accused Sonia entered into an agreement with him and his brother Jagdish for selling their land measuring 49 Kanals 17 Marlas @ Rs.17.70 lacs per acre and received the earnest money to the tune of Rs.25 lacs from them. Thereafter, they paid an amount of Rs.34,58,810/- and later-on, another amount of Rs.88.50 lacs to the petitioner and his said co-accused who got the agreement to sell executed afresh on 10.06.2019 while fraudulently mentioning the land to be sold as 40 Kanals only, therein. However, the petitioner and his co-accused kept on dilly-dallying

the execution and registration of the sale deed in his and his brother's favour despite having received a total amount of Rs.1,48,88,810/- from them and later-on, he came to know that these persons had secured the loan from the bank while mortgaging the said land and on being confronted in this regard, they threatened them with dire consequences.

Reply and the Additional Reply have already been filed on behalf of the respondent-State, by way of the affidavits of the Assistant Superintendent of Police, Indri, District Karnal.

I have heard learned counsel for the petitioner as well as learned State counsel (assisted by learned counsel for the complainant) in the instant petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the dispute between the parties is of civil nature and the petitioner and his co-accused had handed over the possession of the land in question to the complainant party and it was, rather, the complainant, who had failed to purchase the requisite stamp-papers for the execution and registration of the sale deed and moreover, the petitioner is behind the bars since 25.08.2021 and the Challan has already been presented in the Court and therefore, he deserves the relief as prayed for in the present petition.

Per contra, learned State counsel argues that the petitioner and his co-accused had fraudulently received the amount of Rs.1,48,88,810/- from the complainant party without disclosing to them that they had secured loan from the bank while mortgaging the said land and in the subsequently executed agreement to sell, they had reduced the area of the

land, the subject matter of the said agreement, to 40 Kanals whereas as per the initial agreement to sell, the land measuring 49 Kanals 17 Marlas was agreed to be sold and keeping in view the gravity of the offence committed by the petitioner, this petition be dismissed.

The agreement to sell, as initially executed between the parties, was for the land measuring 49 Kanals 17 Marlas. However, in the afore-mentioned subsequent agreement to sell, the said area has allegedly been reduced to 40 Kanals. In Para No.ii (e) in the Additional Reply, it has specifically been mentioned that the petitioner and his co-accused were found to have mortgaged the above-said land with different banks for securing the loan to the tune of Rs.14 lacs (stated to have been cleared), Rs.45 lacs, Rs.72.15 lacs, Rs.9 lacs and Rs.5 lacs but they had not mentioned the factum of outstanding loan amounts in the said agreements to sell. It being so, the dispute between the parties, *prima-facie*, cannot be termed to be exclusively having the flavour of civil action only.

As regards the contention qua the possession of the land having been handed over to the complainant party and the plea qua the complainant having failed to purchase the stamp-papers for the execution and registration of the sale deed, the same can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial and the same cannot be decided at this stage while dealing with the present bail petition and rather, at this moment, the facts remain that the petitioner has allegedly received the afore-said huge

amount from the complainant party and has not executed the sale-deed in their favour in lieu thereof whereas in Para (ii) (g) in the Additional Reply, it has categorically been deposed that during the enquiry as conducted by the Economic Crime Wing, Karnal, in respect of the complaint as moved by the complainant, it has been found that the complainant and his above-named brother had sold their land to arrange for the funds so as to purchase the land from the petitioner and his wife Sonia, i.e his co-accused. Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, the period of his incarceration from the said date and the factum of the presentation of the Challan in the Court, do not suffice at all to extend the relief of regular bail to him.

Resultantly, the petition in hand stands dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

March 03, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*