

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

CRM-M No.38795 of 2019 (O&M)

Date of Decision: 31.01.2022

Deepak Bhatia

.....Petitioner.

Versus

State of Haryana

.....Respondent.

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

Present:- Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana
for the respondent-State.

Ms. Prabhjot Kaur Bhatti, Advocate
for the complainant.

MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case pertaining to the FIR bearing No.268 dated 22.08.2019 registered at Police Station Civil Line, Sirsa, under Sections 406 and 420 IPC, the petitioner has preferred this petition for seeking the relief of anticipatory bail.

Bereft of unnecessary details, the allegations, as levelled by complainant Harbhajan Singh Dhanju in the subject FIR, are that the father of the petitioner was his close acquaintance. In October 2011, the petitioner introduced him to his (petitioner's) co-accused Karamjit Singh Brar while disclosing that his said co-accused was the owner of ½ (half) share in Plot

No.2235, Sector 20, Part-3, HUDA, Sirsa and he (complainant) agreed to purchase the same for a sum of Rs.14,55,000/-. He had paid the afore-said amount to the said owner through the petitioner on different occasions who had been issuing the receipts in this regard. The petitioner also executed a receipt qua having received the entire amount of sale consideration from him (complainant) and then, an agreement qua the said sale transaction was executed but thereafter, the petitioner and his co-accused kept on dilly-dallying the execution and registration of the sale deed in pursuance of the afore-said agreement and when he (complainant) enquired from the office of HUDA, he came to know that the above-named co-accused of the petitioner and the other co-owner of the said plot named Ved Parkash had surrendered the plot to HUDA and thus, the petitioner and his co-accused had duped him of the above-said amount.

Reply has already been filed on behalf of the respondent-State, by way of the affidavit of Deputy Superintendent of Police (Headquarter), Sirsa.

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

Learned counsel for the petitioner contends that the dispute between the parties, at the most, is of civil nature and the complainant did not file any civil suit for seeking specific performance of the above-said agreement to sell and in these circumstances, it becomes explicit that the petitioner has been got falsely implicated in this case and he deserves the

relief as prayed for in this petition.

Per contra, learned State counsel argues that the petitioner denied his signatures on the receipt executed to acknowledge the payment of the afore-said amount of sale consideration and moreover, the non-filing of any suit for specific performance does not absolve the petitioner from his culpability in the present case and keeping in view the gravity of the offence as committed by him (petitioner), this petition be dismissed.

The complainant has levelled specific allegations against the petitioner in the said FIR qua his having persuaded him (complainant) to purchase the above-said plot. He has also categorically alleged therein that he had paid the entire afore-said amount of sale consideration to the said owner through the petitioner on different occasions and the petitioner had also executed the receipt to acknowledge this fact.

The petitioner was granted the relief of interim bail by the Co-ordinate Bench vide the order dated 12.09.2019 with the direction to him to join in the investigation as and when called upon to do so. However, in Para 5 of the preliminary submissions in the Reply, it has been mentioned that the petitioner denied his signatures on the above-said receipt and therefore, notices were issued to him under Section 41(1) Cr.PC to join in the investigation on 16.03.2020, 17.06.2020 and 30.06.2020 as his specimen signatures were required for the purpose of comparison thereof with the signatures appearing on the said receipt but the petitioner did not join in the investigation. Though in his affidavit dated 12.08.2021, the petitioner had deposed that he had joined in the investigation on

15.05.2020, 16.05.2020, 21.05.2020 and 17.06.2020 but the fact remains that he did not give his specimen signatures on any of these dates. In these circumstances, the possibility of the requirement of the custodial interrogation of the petitioner to elicit the truth qua the said receipt and the payment of the above-said amount cannot be ruled out.

Further, mere factum of non-filing of the civil suit for seeking specific performance of the agreement to sell in question does not suffice at all to show the false implication of the petitioner in this case. Moreover, it is well-settled that if any act or omission attracts civil as well as criminal action, then either of the proceedings can be initiated and even both the proceedings can be commenced and continued simultaneously.

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, this Court is of the considered opinion that he (petitioner) does not deserve the relief of anticipatory bail.

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.

January 31, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*