

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

207

CRM-M-44900-2022
Date of decision : 15.11.2022

Hardev

Petitioner

V/S

State of Haryana and another

Respondents

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Anshul Sharma, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

Mr. J.S. Hooda, Advocate
for respondent No.2.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.282 dated 30.06.2022 registered under Sections 120-B, 406 and 420 of the Indian Penal Code, 1860 at Police Station Chand Hut, District Palwal.

The above-said FIR was registered on the complainant made by respondent No.2-Rohtash Kumar alleging that the petitioner had agreed to sell his land measuring 19 kanals 15 marlas situated in Village Katesra, Tehsil and District Palwal to him for consideration of Rs.1,30,84,375/-. On 22.07.2021 the petitioner executed an agreement to sell in his favour and he had paid amount of Rs.15,50,000/- to the petitioner as earnest money. The date for execution of the sale deed was fixed as 28.10.2021. The petitioner had also taken loan from Haryana

Gramin Bank by mortgaging the land in question. A civil suit is also pending in the Court regarding the land in question and it was clearly mentioned in the agreement that the sale deed will be executed after decision of the civil suit and if the civil suit was not decided till the date fixed for execution of the sale deed, the date of execution of the sale deed would be deemed to have been extended. However, on 23.12.2021, he came to know that the petitioner had sold the land in question to some other person vide sale deed No.8948 dated 12.11.2021.

Learned counsel for petitioner submits that the petitioner has been falsely implicated in the present case. The dispute between the parties is of civil nature which has been given a criminal colour. There is no civil suit pending regarding the land in question as the same was already disposed of by learned Civil Judge (Junior Division)-cum-Presiding Officer, National Lok Adalat, Palwal vide order dated 11.09.2021. The Manager, Sarva Haryana Gramin Bank vide letter dated 21.10.2021 made it clear that the land in question was cleared from loan. The petitioner has already cleared the loan on 12.07.2016. On 28.10.2021, the petitioner reached at the Registration Office for registering the land in the name of complainant, however, the complainant did not come there. When the complainant did not reply to the petitioner even after making repeated request with regard to registration of sale deed, the petitioner sold his land to co-accused Dharamvir vide sale deed dated 12.11.2021. The complainant has already filed a suit for a decree for specific performance of the

agreement to sell dated 22.07.2021 and the petitioner has also filed a suit for declaration and permanent injunction which are pending in the Civil Court. The complainant after a delay of more than 07 months filed a complaint against the petitioner and other co-accused. Nothing is to be recovered from the petitioner and his custodial interrogation is not required. The petitioner is ready and willing to join the investigation.

On the other hand learned State counsel and learned counsel for the complainant has opposed the present petition in terms of reply dated 07.10.2022 filed by the State and submit that the petitioner has cheated the complainant and dishonestly induced him to deliver a sum of Rs.15,50,000/- on the mis-representation that he would sell his land to him for consideration of Rs.1,30,84,375/- and after sometime the petitioner sold the land in question to some other person.

Learned State counsel further submits that since lodging the FIR, the petitioner is running from the police and not cooperating the investigation. Even notice under Section 41(2)(a) has been served upon the petitioner and the same was received by the wife of the petitioner despite that the petitioner did not appear before the investigating agency. The custodial interrogation of the petitioner is required for through investigation of the case and for recovery of amount of Rs.15,50,000/-.

I have heard learned counsel for the parties and perused the record.

Needless to say, such type of cheating is rampant in our society and is often adopted by fraudsters, property grabbers and

unscrupulous persons by usurping hard earned money of innocent people. This has become a cakewalk to amass wealth illegally overnight which needs to be curbed to save the innocent people with an iron hand.

The allegations against the petitioner are serious in nature. The recovery of hefty amount is yet to be effected. Moreover, the investigation is still going on, and therefore, his custodial interrogation is necessary for through investigation of the case.

It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in *Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171*.

Keeping in view the above facts as well as nature of the offence, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

15.11.2022

kothiyal

(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No