

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-49465-2022

Date of Decision: 27.10.2022

Rupender Singh

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Ramnish Puri, Advocate for the petitioner

Sandeep Moudgil, J. (Oral)

(1) The petitioner has filed this petition under Section 438 CrPC seeking anticipatory bail in case FIR No.277 dated 18.09.2022 under Section 420 IPC registered at Police Station Civil Line Jind, District Jind (Annexure P1).

(2) The FIR in the present case was registered on the basis of application moved by Satbir Singh Chahal s/o Sh. Jai Lal, r/o H. No. 1808, Urban Estate, Jind (in short the complainant) which was addressed to the Superintendent of Police, Jind. It is alleged in the application that complainant on 26.03.2021 purchased a house having No. 497-P, Sector-9, Jind from Rupender s/o Udeyvir for a consideration of Rs. 1,32,00,000/- out of which Rs.51,06,532/- were paid as advance money. The date for registration of sale deed was fixed as 30.09.2021. However, the said person proved to be cheater and dishonest. The said house was in the name of his wife who had expired. He got transferred this house in favour of his son in two portions and sold it to some other person namely, Ashok and his wife Poonam Rani and took Rs.52,00,000/- from them also. The complainant came to know about this fact after about 3 days. The complainant went to the house

of petitioner where petitioner threatened to kill him if any action is taken against him.

(3) Notice of motion.

(4) On the asking of the Court, Mr. Chetan Sharma, AAG Haryana accepts notice for the State of Haryana and Mr. Abhishek Dhull, Advocate has put in appearance and has filed vakalatnama on behalf of the complainant, which is taken on record.

(5) Learned counsel for petitioner contended that petitioner has been falsely implicated in the present matter. The alleged agreement is not a registered one. In fact, the signature of the petitioner were taken on papers on the pretext of loan. The said document was converted into an agreement to sell by the complainant. The witnesses have also been created by the complainant on the agreement. No amount has been paid to the petitioner. The amount has been deposited in the office of HUDA. It is mentioned in the detail of paid amount also which is mentioned in the notice by the complainant. It is urged that it is a civil dispute only regarding money between the parties and no offence of cheating is made out and no criminal proceeding can be initiated. In support of his arguments learned counsel has relied upon law laid down by the Hon'ble Supreme Court in case titled as **Murari Lal Gupta V. Gopi Singh Transfer petition (Crl.) No. 181 of 2004**, decided on October 25, 2005. Learned counsel submitted that in such circumstances, the case is based on document only and petitioner is not required for investigation. However, he is ready to join in the investigation and co-operate in the investigation.

(6) On the other hand, learned counsel for State as well as counsel for the complainant opposed the bail petition on the ground that the agreement to sell was duly executed and signed by the petitioner. The petitioner has entered into an agreement with another person also, therefore, his intention was mala fide from the very beginning. Therefore, the offence under Section 420 of IPC is made out. It is wrong to say that no amount was paid to the petitioner. In fact, some of the amount was paid in cash and some in the office of HUDA on his behalf in respect of dues pending against the petitioner. In such circumstances, the custodial interrogation of the petitioner is required.

(7) Having heard learned counsel for the parties, this Court is of the considered view that this petition ought to fail.

(8) Prima facie, the signatures of the petitioner are there on the agreement and as per the allegations the petitioner has taken Rs.52 lakh from Ashok Kumar and his wife Poonam Rani also. As such, prima facie there are substantial and serious allegations against the petitioner, and in these circumstances, the custodial interrogation of the petitioner would be required. The law laid down in **Murari Lal Gupta's** case (supra) as relied upon by petitioner is not applicable to the facts and circumstances of the present case case.

(9) No ground of grant of concession of anticipatory bail is made out.

(10) Dismissed.

27.10.2022

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No