

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 05.07.2023

1. CRM-M-9172-2023

Kulwinder Kaur

..... Petitioner

versus

State of Haryana

..... Respondent

2. CRM-M-9764-2023

Narender Singh

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vaibhav Goel, Advocate
for the petitioner(s).

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Pankaj Bali, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

Present petitions have been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioners in case bearing FIR No.0643 dated 22.12.2022, registered for offences punishable under Sections 406, 420 and 120-B of IPC at Police Station Thanesar City, District Kurukshetra.

2. As per the allegations levelled in the FIR, it has been alleged as under:-

“Sir, copy of the complaint are as follows-Complaint No.2032-Peshi dated 07.12.2022. "To Superintendent of Police, Kurukshetra. Application for taking legal action

against (1) Kulwinder Kaur wife of Narender Singh (2) Narender Singh son of Iqbal Singh residents of Village Beer Amin, Thanesar, District Kurukshetra presently resident of 7-B, Tehsil Thanesar, District Kundshetra. Sir, it is submitted that I Ramesh Kumar son of Sh. Jaimal Singh am resident of H.No.1, Samrat Bhawan, Sector 4, Urban Estate, Kurukshetra and respectfully submit as under – (1) That I am a law abiding and peace loving citizen. (2) That accused Kulwinder Kaur with active consent of her husband Narender Singh son of Iqbal Singh and in connivance with him, with an intention to cheat me, entered into an agreement to sell her House No.2737 situated in Darlakala, Gurdev Nagar, Ward No.5, within the limits of Municipal Corporation Thanesar, District Kurukshetra for a sum of Rs.50,00,000/- on 13.09.2022 and in lieu thereof, received a total sum of Rs.46,00,000/- from me. Out of the said amount, a sum of Rs.10.00 lacs were transferred through RTGS vide reference No PUNBR520220 61413556137 dated 14.06.2022, sum of Rs.4,00,000/- was paid vide cheque No.652121 dated 17.06.2022, a sum of Rs.3,00,000/- vide cheque no. 652122 dated 22.06.2022 drawn on State Bank of India, Ambala Cantt and Rs.8,00,000/- were transferred through RTGS vide reference SBINR52022060687523724363193 dated 06.06.2022 and a sum of Rs.21,00,000 were transferred in the account of Narender Singh, husband of accused Kulwinder Kaur i.e. A/c No.087300011111654. That in this regard one written agreement was got prepared on 13.09.2022 in the presence of Sh. Ashok Kumar son of Sh. Sher Singh and Ramesh Kumar son of Phool Singh, resident of Village Panjokhra, District Karnal. Date of registry was fixed as 21.01.2023 and balance sum of Rs.4,00,000/- was to be paid at the time of registry (copy of the agreement is attached herewith). (3) That now the applicant has come to know that with an intention to cheat the applicant to the tune of Rs.46,00,000/-, the accused Kulwinder Kaur has also entered into an agreement to sell with one Ashok Kumar

son of Sh. Nand Lal resident of 116/4, Ram Gali, Patron Wali Gali, Thanesar, Kurulahetra for a sum of Rs.45,00,000/- on 10.10.2022 and out of the said amount, she has to receive Rs.10,50,000/- from the purchaser on 09.12.2022 at the time of execution of registry (copy of the agreement is attached). (4) That on coming to know about the fraud played with me, I talked to the accused and enquired about above said agreement. At this, above accused Kulwinder Kaur and Narender Singh while issuing threats to me, stated that they have entered into an agreement to sell in respect of this house with someone else and now you can do whatever you can. They further threatened that in case I made any complaint against them or tried to approach them again, they will kill me. You are therefore, requested that keeping in view aforesaid facts, strict legal action may be taken against above said accused persons by registering FIR against them. I shall be highly obliged. My life and property be protected. Thanking you, sd/- Ramesh Kumar son of Sh. Jaimal Singh, resident of H.No.1, Samrat Bhawan, Sector 4, Urban Estate, Kurukshetra, Mobile No.89012-20001, 85708-70001.”

3. Counsel for the petitioners argues that in fact the petitioners never executed any of the agreement to sell as being projected in the complaint. He submits that so far as transfer of 46 lakhs rupees that too by way of RTGS, Transfer and the cheques is concerned, is matter of record. However, the same was prior to the agreement to sell dated 13.09.2022 and to man of ordinary prudence will transfer such a big amount prior to execution of agreement to sell and the said amount was due to business transaction between the petitioners and the complainant.

4. Per contra, Mr. Bali however submits that the transfer of amount has been proved and though the petitioners before this Court are denying subsequent agreement, but the same has been taken in possession

by the investigating agency. Mr. Bali further submits that there is nothing on record to prove that there are business transaction between the parties and so far as agreement to sell dated 13.09.2022 is concerned, the petitioners cannot dispute the said. State counsel has also joined Mr. Bali to submit that in fact agreement to sell dated 09.12.2022 is in possession of investigating agency.

5. I have heard counsel for the parties and have gone through the records of the case.

6. Without commenting upon agreement to sell dated 13.09.2022, this Court is of the considered opinion that once the petitioners are denying execution of agreement to sell dated 09.12.2022 and the agreement being propounded by the complainant anyway is prior in time to the agreement dated 09.12.2022, the right of the petitioners to get the same executed is not effected.

7. In view of above, order dated 13.03.2023 is made absolute subject to the conditions as enumerated under Section 438(2) Cr.P.C.

8. Petitions stand disposed off.

9. A photocopy of this order be placed on the file of other connected case.

**(PANKAJ JAIN)
JUDGE**

05.07.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No