

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-10321-2023

Date of Decision: 5.5.2023

Harjinder Pal Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Amaninder Singh Sekhon, Advocate
for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab.

Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. GPS Ghuman, Advocate,
for the complainant.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 438 of Code of Criminal Procedure is for grant of anticipatory bail to the petitioner in case FIR No.258 dated 4.10.2022 registered for the offences punishable under Sections 420, 465, 466, 467, 120-B IPC at Police Station Guru Harsahai.

2. FIR in this case was registered on the basis of the complaint lodged by Sham Sunder wherein he alleged that petitioner-Harjinder Pal Singh, his wife Harpreet Kaur and Bhupinder Singh entered into an agreement to sell their land measuring 20 acres in village Shareeh Wala with the complainant and the entire sale consideration worth ₹ 97 lakh was received by the accused persons through RTGS in the presence of the witnesses from the complainant. Petitioner-Harjinder Pal Singh executed registered sale deeds with regard to 13 acres out of the above said land in the name of the complainant but failed to execute the sale deed regarding

remaining area of 60K-7M and 6 Sarsai despite the fact that even the sale consideration with regard to the said land has been already received by the petitioner. It is also alleged that the land in question was already mortgaged with PADB Bank, Guru Harsahai and Union Bank, Faridkot against loan availed by the petitioner but the petitioner had shown fake no objection certificates to the complainant at the time of entering into the aforesaid contract.

3. Counsel for the petitioner *inter alia* contends that the dispute between the parties is of civil nature but has been given the colour of criminal case; that the petitioner sold his 13 acres of land to the complainant vide two registered sale deeds dated 6.4.2022 and on the basis of both the said sale deeds, mutation has been sanctioned in favour of the vendee and thereafter, the vendee mortgaged the said land to secure the bank loan.

4. Counsel for the petitioner further submits that the complainant is alleging that the petitioner also agreed to sell his another land measuring 7 acres vide draft sale deed dated 24.3.2022. It is further submitted that the complainant party took signatures of the petitioner on the said draft sale deed fraudulently. He further submits that as regards registered sale deeds dated 6.4.2022, even the entire sale consideration of the same was not paid by the complainant party to the petitioner and with regard to the said dues, the petitioner gave application to the police having UID-16245.

5. Counsel for the petitioner further submits that after 24.3.2022, compromise was effected between the parties and resultantly, the complainant gave his affidavit and also got recorded his statement with the police on 7.4.2022 and the complainant had also withdrawn complaint lodged by him with the police vide order dated 8.4.2022. He further submits

that the complainant party has now filed civil suit on the basis of the alleged draft sale deed dated 24.3.2022 wherein the Court concerned has restrained the petitioner from alienating the property in dispute till further orders. He further submits that the petitioner is having no dispute with Amarjit Singh who was present when two sale deeds dated 6.4.2022 were executed by the petitioner in favour of the complainant party. He has further contended that there was no malafide intention on behalf of the petitioner to commit cheating or to deceive anyone. He further submits that the petitioner never agreed to sell remaining land measuring 7 acres to the complainant and that the entire case is based on documents which are available with the investigating agency. So, prayer is made that the petitioner be allowed to join investigation.

6. Present petition is resisted by the State counsel as well as learned senior counsel appearing on behalf of the complainant.

7. Learned senior counsel for the complainant has submitted that the petitioner executed one sale deed dated 6.4.2022 regarding land measuring 100K-13M for consideration of ₹ 59,65,000/- which was paid through RTGS and the petitioner sold another land measuring 2K-18M vide separate sale deed dated 6.4.2022 to the complainant for valuable consideration of ₹ 1,70,500/-. He further submits that there is no dispute between the parties with regard to execution and registration of the aforesaid two sale deeds.

8. Learned senior counsel for the complainant has further submitted that the petitioner also agreed to sell his remaining land measuring 57K-5M vide draft sale deed dated 24.3.2022 and at that time, the entire sale consideration worth ₹ 35,50,000/- was paid to the petitioner.

by the complainant through cheque.

9. Learned senior counsel for the complainant has further submitted that after the aforesaid draft sale deed was signed by the petitioner and the complainant in the presence of the attesting witnesses, the petitioner left the office of Sub-Registrar and thereafter, never came forward to execute and register the sale deed regarding the aforesaid land measuring 57K-5M. He further submits that it has come on record that the land in question and another land measuring about 13K was already mortgaged by the petitioner with two banks but at the time of execution of the sale deeds dated 6.4.2022, this fact was concealed by the petitioner. He further submits that the petitioner has committed fraud of ₹ 35,50,000/- as he has refused to execute and register the sale deed regarding land measuring 57K-5M in favour of the complainant.

10. Learned senior counsel further submits that in the given circumstances, the petitioner is not entitled to get concession of anticipatory bail.

11. I have considered the submissions made by the counsel for the parties.

12. There is no dispute regarding the fact that the petitioner executed two registered sale deeds dated 6.4.2022 with regard to the land measuring 100K-13M and 2K-18M for consideration of ₹ 59,65,000/- (payment made through RTGS) and ₹ 1,70,500/- respectively. The dispute between the parties is with regard to execution of draft sale deed dated 24.3.2022 whose copy is available on record and as per the same, payment of entire sale consideration worth ₹ 35,50,000/- was made to the petitioner by the complainant through cheque which was deposited in loan A/c

No.617044017688 of the petitioner in Kotak Mahindra Bank, Branch Pandori Gola, Tarn Taran.

13. Admittedly, the dispute between the parties is regarding draft sale deed dated 24.3.2022 executed by the petitioner regarding sale of his another land measuring 57K-5M and as per said draft sale deed whose copy is available on record, the complainant/vendee made payment of entire sale consideration worth ₹35,50,000/- in the bank loan account of the petitioner. The petitioner has not specifically denied his signatures on the said draft sale deed and rather his plea is that his signatures were obtained on the said draft sale deed by playing fraud against him. However, counsel for the petitioner failed to clarify as to how and in what manner, fraud was committed by the opposite party against the petitioner.

14. No doubt, the complainant has filed civil suit with regard to land in question against the petitioner and some other persons. In the FIR, there are specific allegations of cheating and forgery made by the complainant against all the accused persons including the petitioner and the concerned revenue Patwari. It is settled law that even if civil remedy is availed by the party, he is not precluded from setting in motion proceedings under criminal law as has been held by Hon'ble Supreme Court in **K. Jagadish v. Udaya Kumar G.S. and another**; (2020) 14 SCC 552. Further, there is apprehension in the mind of the complainant that the petitioner will leave the country in the same manner in which his son has already left India and has gone to Australia.

15. For the above stated reasons as well as consideration of various pleas taken by both the parties, this Court is of the view that it is not a fit case to grant concession of anticipatory bail to the petitioner. Accordingly,

the present petition is hereby dismissed.

16. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

(KARAMJIT SINGH)
JUDGE

May 5, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No