

CRM-M-11084 of 2023

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

CRM-M-11084 of 2023
Date of decision: 02.03.2023

Jaspal Singh @ Jassa

.....Petitioner

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Abhimanyu Singh, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.(ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.42 dated 17.02.2023 under Sections 420, 120-B IPC, registered at Police Station City-2, Mansa, District Mansa.

Briefly stated case of prosecution is that complainant Darshan Singh moved an application before SSP, Mansa on the accusation that his wife Sunita Rani was owner of land measuring 148 kanal 4 marla at village Chhapianwali. Complainant is the attorney of his wife. The complainant and his wife are settled in Canada and they want to dispose of their land. On 26.12.2022, petitioner-Jaspal Singh @ Jassa whose property is abutting the property of the complainant got effected a deal with Dangal Singh. An agreement to sale the land at the rate of Rs.19,55,000/- per acre was executed between the parties and Rs.7,70,000/- was paid Dangal Singh as earnest money. The stipulated date fixed for registration of sale deed was 20.01.2023. Dangal Singh

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made the payment of Rs.2,30,000/- to complainant and got extended the date from 20.01.2023 to 25.01.2023 for registration of the sale deed. On 25.01.2023 a draft of Rs.1,34,00,000/- was handed over to the complainant by petitioner-Jaspal Singh and Dangal Singh and remaining amount is said to be lying in two bags, shown to him. The sale deed was executed before Tehsildar. One bag containing Rs.One Crore was handed over to complainant by petitioner-Jaspal Singh. Dangal Singh asked the complainant that due to some urgency, second bag was returned. Three cheques were handed over to the complainant. Thereafter, 25 lacs were transferred to his account. The amount of second cheque was also transferred to the account of complainant. Thereafter, accused got returned the cheque amount from the account of complainant in connivance with the bank officials and cheated the complainant for an amount of Rs.75,50,000/-. On this narration, police came into action and registered present case.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He is working as a property dealer and nothing is to be recovered from the petitioner. He further submits that the petitioner is ready and willing to join the investigation.

Per contra, on receipt of advance copy of the petition, learned State counsel submits that petitioner along with co-accused got the sale deed executed from the complainant but did not pay the entire sale consideration and committed fraud with the complainant. Therefore, he is not entitled for grant of pre-arrest bail.

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

After registration of FIR on the complaint made by the complainant, an inquiry was conducted by the police and it has come in the inquiry that petitioner-Jaspal Singh @ Jassa called the complainant at Tehsil Mansa and got fixed deal of land between the complainant and Dangal Singh son of Niranjana Singh at the rate of Rs.19,55,000/- per acre. As per agreement, Dangal Singh paid Rs.7,70,000/- as earnest money in the presence of petitioner-Jaspal Singh on 26.12.2022 and the sale deed was to be executed on 20.01.2023, which was extended to 25.01.2023 and amount of Rs.2,50,000/- was paid by Dangal Singh to the complainant. On 25.01.2023, complainant Darshan Kumar along with his relative Gurjinder Singh came present at Tehsil Office, Mansa, whereas petitioner-Jaspal Singh @ Jassa and Dangal Singh told the complainant that they have already got prepared the sale deed and they are having the remaining sale consideration amount. Dangal Singh disclosed to the complainant that the sale deed will be executed in favour of his wife Manjeet Kaur and daughter-in-law Amandeep Kaur wife of Gurpreet Singh and a demand draft of Rs.1,34,00,000/- was given to the complainant and two bags having cash were also lying in the chamber of deed writer Gurwinder Singh Sodhi, which were shown to by the petitioner and complainant was told that remaining sale consideration is lying in the said bags and he (complainant) should put his signature in the presence of Tehsildar and till him that the amount has been received by him. When the complainant came after putting

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his signatures before the Tehsildar, petitioner-Jaspal Singh @ Jassa handed over one bag having cash amounting to Rs.1 crore to the complainant and he hid the second bag somewhere else and co-accused Dangal Singh told the complainant that remaining amount has been given by him to some other person because of emergency and, therefore, he will be given the remaining amount on the next very day. On raising alarm by the complainant, Dangal Singh issued three cheques and handed over to the complainant i.e. cheque No.26 dated 25.01.2023 issued by Amandeep kaur amounting to Rs.25 lac; cheque No.27 dated 27.01.2023 issued by Amandeep Kaur amounting to Rs.25,50,000/- and cheque No.0001 dated 28.01.2023 issued by Manjit Kaur wife of Dangal Singh amounting to Rs.50 lac drawn on HDFC Bank and the said cheques have not been encashed. In this manner, fraud has been committed with complainant-Darshan Kumar by the petitioner and co-accused Dangal Singh in connivance with each other.

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

There are specific allegations against the petitioner that he along with his co-accused played fraud with the complainant and duped him of an amount of Rs.75,50,000/-. The allegations are serious in

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nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses. There appears to be dishonest inducement and cheating committed by the petitioner and Dangal Singh to deceive the complainant.

Reliance can be placed upon the Hon'ble Supreme Court dictum passed in *Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598* and *Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364* whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

After examining the facts and circumstances of the case, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

In view of the above, the petition is dismissed.

02.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No