

2023:PHHC:144933

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

205

CRM-M-26591-2023

Date of decision : 15.11.2023

Lakhbir Singh

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mrs. R.K. Grewal, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 438 of Cr.P.C. for grant of pre-arrest bail in case F.I.R. No.47 dated 22.03.2023 registered for offences punishable under Sections 120-B, 420 and 506 of IPC at Police Station Machhroli, District Jhajjar.
2. Counsel for the petitioner submits that a bare perusal of the agreement to sell as well as the sale deed executed by the complainant in favour of the petitioner would reveal that the subject matter of both the documents is same and thus it does not lie in the mouth of the complainant now to cry foul. The matter is purely of civil nature and the prior agreement to sell executed by the petitioner in favour of Pardeep Kadian and oral allegations cannot be looked into in light of Sections 91 and 92 of the Evidence Act.

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3. Per contra, counsel for the complainant as well as State have opposed the pre-arrest of bail on the ground that the agreement to sell executed by the petitioner in favour of Pardeep Kadian being almost contemporaneous in time can well be looked into to demonstrate that the intention of the vender was to sell different parcels of land than the one which was got sold by the petitioner duping the complainant. It has been further contended that adjoining piece of land was sold during almost same period of time for a much higher value and thus it is a case of cheating.

4. Having heard rival contentions of the parties and after going through records of the case, this Court finds that the subject matter of agreement to sell as well as that of sale deed is same. The evidence is in form of documentary evidence and thus there cannot be any apprehension that the petitioner can tamper with the same.

5. In view of above, this Court finds that the petitioner is entitled for pre-arrest bail more so, when during the pendency of the present petition, the petitioner was granted interim protection vide order dated 09.06.2023 and is not stated to have misused or abused the same.

6. Consequently, the present petition is allowed.

7. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

8. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

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9. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

10. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

11. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

15.11.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No