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

**CRM-M-33176-2020 (O&M)
Date of Decision: 11.09.2023**

Amit Kumar and another

.. Petitioners

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Chand Ram Olla, Advocate for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Sunil Saharan, Advocate for the complainant.

...

MAHABIR SINGH SINDHU, J.

1. Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioners in FIR No.383 dated 25.06.2020, under Sections 406, 420 and 120-B of the Indian Penal Code, 1860, registered at Police Station Barwala, Hisar, District Hisar.

2. It transpires that the co-ordinate Bench, stayed the arrest of petitioners on 16.10.2020 and the order reads as under:

“The case has been taken up for hearing through video-conferencing.

Learned counsel for the petitioners contends that an agreement to sell was allegedly executed between petitioner No.1 and the complainant on 16.12.2019. Petitioner No.1 received an amount of Rs.7,00,000/- as earnest money and thereafter, executed sale deed in favour of his mother Babita. Learned counsel further submits that no role has been ascribed to petitioner No.2. Petitioner No.1 is a drunkard and the agreement to sell is the result of fraud. The dispute is purely a civil dispute arising out of agreement to sell.

Notice of motion for 06.11.2020.

Till the next date of hearing, arrest of the

petitioners shall remain stayed.”

3. On 07.01.2021, the Co-ordinate Bench while granting interim pre arrest bail to the petitioners passed the following order:-

“The case has been taken up for hearing through video conferencing.

Notice of motion was issued on 16.10.2020. Arrest of the petitioners was also stayed.

Learned counsel for the petitioners submits that petitioner No.1 would give his specimen signature for comparison with the signature appearing on the agreement to sell.

In view of nature of allegations against the petitioners, it would be appropriate to direct them to join the investigation. Petitioner No.1 shall join the investigation by way of giving his specimen signature for comparison with the signature appearing on the agreement to sell.

In the meanwhile, petitioners are directed to appear before the SHO/Investigating Officer to join investigation on 12.01.2021 at 11.00 A.M. and in the event of their arrest, they shall be enlarged on ad interim bail, on their furnishing requisite bail bonds/surety bonds subject to the satisfaction of Arresting Officer. However, petitioners shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 05.03.2021.”

4. Again the interim bail was extended from time to time and parties were relegated before the Mediator, but mediation remained unsuccessful. Thereafter, on 12.01.2023, the Co-ordinate Bench passed the following order:

“As per report of the Mediator, the mediation proceedings have failed as petitioner No.2 is not inclined to settle the matter and is willing to get the decision from the Hon'ble Court only.

Counsel for the petitioners submits that the petitioners have joined the investigation with the police. State Counsel as well as counsel appearing on behalf of the complainant submits that both the petitioners are hand in glove and petitioner No.1 took amount of Rs.7.5 lakh as earnest money from the complainant on the basis of one agreement to sell and thereafter, petitioner No.1 intentionally transferred the property in question in favour of petitioner No.2 vide transfer deed dated 26.2.2020 and thereafter, petitioner No.1 failed to execute the sale deed in favour of the complainant and has also refused to return the amount. Faced with this situation, counsel appearing on behalf of the petitioner prays for adjournment to seek necessary instructions as to whether the petitioners are

ready to return the aforesaid amount of Rs.7.5 lakhs or to deposit the same with the Court concerned.
Now be listed on 21.4.2023.
Interim order to continue till then.”

5. Again, the matter was adjourned and on 18.05.2023, the petitioners were directed to produce demand draft of Rs.2 lacs in the following manner:

“Counsel for the petitioner submits that the petitioners have joined the investigation with the police and in order to show their bonafide, the petitioners are ready to deposit amount of ₹2 lakh by the next date of hearing with the Court concerned.
In view of above, counsel for the petitioners is directed to produce demand draft of ₹2 lakh on the next date of hearing.
Now be listed on 11.9.2023.
Interim order to continue.”

6. Today, learned counsel for the petitioners after obtaining instructions submits that present petition be disposed off as not pressed at this stage; however, petitioners be granted liberty to surrender before the Court below and their regular bail be decided expeditiously.

7. Ordered accordingly.

8. The petitioners may surrender before the Court below within one week from receipt of certified copy of this order and in case, regular bail is applied, the same shall be considered and decided in accordance with law within next two weeks by the Court concerned.

9. Needless to say that interim order dated 16.10.2020, which has been extended from time to time, shall come to an end; automatically.

10. Pending application(s), if any, shall also stand disposed off.

11.09.2023

Jasmine Kaur

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No