

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9886-2024 (O&M)

(1) Subrat Jain ...Petitioner
Versus
State of Haryana ...Respondent

CRM-M-10407-2024 (O&M)

(2) Nisha Jain ...Petitioner
Versus
State of Haryana and another ...Respondents

Date of Decision:- 18.3.2024

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. D.S. Matya, Advocate for the petitioner.
Mr. Ramender Singh Chauhan, AAG, Haryana.
Mr. Indresh Goel and Mr. Suksham Aggarwal, Advocates
for respondent no. 2.

FIR NO.	DATE	POLICE STATION	OFFENCES
628	14.11.2023	Ambala City, District Ambala	Under Sections 420, 467, 468/34 IPC

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned two petitions filed on behalf of Subrat Jain and Nisha Jain seeking grant of anticipatory bail in a case arising out of above mentioned FIR.

2. The FIR was lodged at the instance of Pawan Aggarwal wherein it is alleged that he had been defrauded by Nisha Jain, Subrat Jain, Priyank Jain and Ritu of an amount of Rs. 40 lacs. It is alleged that although the said persons had sold property to him vide agreement to sell dated 6.5.2023 but despite having taken the entire sale consideration of Rs. 40 lacs, the sale deed was not executed on the nominated date i.e. 31.10.2023. It is alleged that while Nisha Jain is owner of the property in question, the remaining accused are witness to the agreement. The amount in question is alleged to have been paid by two cheques for an amount of Rs. 20 lacs each. It is further alleged that later the complainant came to know that the property sold to him was infact already pledged with bank against a loan. The complainant further alleged that he had later even come to know that the accused had defrauded some other persons also and Nisha Jain had previously entered into an agreement with one Seema daughter of Banarasi Dass wherein also Priyank Jain was a witness, which had been executed on 4.12.2021 and the period of execution was later on extended upto 4.5.2023 i.e. just two days before the agreement which was entered into with the complainant. It is also alleged that the accused had also duped one Ms. Nancy Aggarwal wife of Ankush Aggarwal.
3. The learned counsel for the petitioners submitted that the petitioners have falsely been implicated in the present case and that although a perusal of the FIR itself suggest that it is at best a case of civil liability but the complainant has given it a colour of criminality so as to pressurize the petitioners and other members of their family in an attempt to extort money. The learned counsel further submitted that as a matter of fact it is a case where there

were some business transactions between the complainant and the accused since long time and that the complainant was infact a Financier and had advanced a loan of Rs. 40 lacs to accused Priyank Jain but infact the said amount in question already stands repaid to the complainant.

4. Opposing the petitions, the learned State counsel, assisted by counsel for the complainant, submitted that the petitioner Subrat Jain is husband of petitioner Nisha Jain and that it is Nisha Jain who is owner of the property in question. It has been submitted that the contention of the petitioners regarding the amount being loan amount stand demolished from the fact that upon investigation, it was revealed that a note was specifically recorded on the reverse side of one cheque that the amount paid was the earnest money with regard to the transaction. It has further been submitted that since the land in question already stood mortgaged with bank, therefore, it is evident that the accused had cheated the complainant of huge amount by concealing the material fact that the land was under encumbrance.
5. This Court has considered rival submissions addressed before this Court.
6. This Court finds that the property in question already stood mortgaged with bank when the agreement in question was entered into with the complainant. The said material factum was never disclosed to the complainant. As such, the fraudulent intentions of the accused are very much evident. The conduct of the petitioners in having sold the land to somebody else would also reflect upon the complicity of the accused. The petitioner Subrat Jain is none else but the husband of petitioner - Nisha Jain, who is owner of the property in question and has been associated with the transactions as witness. As such, their complicity is clearly evident. No special case for grant of anticipatory

bail is made out to either of the petitioners. The petitions are sans merit and are hereby dismissed.

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

18.3.2024
kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No