

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

206

CRM-M-41166-2023

Date of decision: 31.01.2024

VIJAY BABAN WADEKAR

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Padam Sankhla, Advocate  
for the petitioner.

Mr. Abhinash Jain, DAG, Haryana.

Mr. Anil Kumar Rana, Advocate for the complainant.

KULDEEP TIWARI. J.(Oral)

On 06.11.2023, the following order was passed:-

**"CRM-34843-2023**

*1. As prayed for, the application is allowed.*

**CRM-M-41166-2023**

*2. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner has sought the concession of his being enlarged on anticipatory bail, in case FIR No.96 dated 01.02.2023, under Sections 420, 406, 506 and 120-B of the IPC, registered at Police Station Surajkund, District Faridabad.*

*3. The allegations, as levelled in the present FIR, are that the complainant alongwith one of the co-accused/non-applicant, namely, Keshav Goel, was running a joint construction venture at Pune, under a partnership firm. However, subsequently with a malafide intention to deceit the complainant, another partnership firm at Pune, under the name and style of "Guru Kirpa", wherein, the present petitioner was also arrayed as a partner. The complainant alleges of his being cheated for a sum of Rs.1,25,00,000/-, as the flats, which fell to his share, were*

*fraudulently sold by co-accused/non-applicant Keshav Goel.*

*4. A perusal of the status report, as filed through affidavit of Devender Kumar, HPS, Assistant Commissioner of Police, Economic Offences Wing, Faridabad, make revelations that, upon investigation being conducted, it surfaced that one partnership deed was executed on 08.08.2011 inter se the complainant Rajeev Bhasin, Rajesh Kumar Bhasin, Gurvinder Singh Randhawa and co-accused/non-applicant Keshav Goel. In the said partnership deed, the complainant held 30% shares, co-accused/nonapplicant Keshav Goel and Rajesh Kumar Bhasin held 25% shares each, and, Gurvinder Singh Randhawa held 20% shares. The said partnership firm had its bank account in Punjab National Bank, Sector 31, Faridabad. Thereafter, the shares of the partners of the partnership firm (supra) underwent changes, through subsequent execution of certain registered deeds.*

*5. The status report (supra) further unfurls that the partnership firm (supra) had constructed 192 flats at Pune, under the project "Pavni Park", while one commercial plot, measuring 1200 sq. yards, was lying vacant and was yet to be developed. After sale of 94 flats, an M.O.U. dated 02.01.2017, was entered into inter se the complainant and the co-accused/non-applicant Keshav Goel, according to which, 98 flats each fell to their respective shares. However, despite the execution of the M.O.U. (supra), co-accused/non-applicant Keshav Goel sold certain flats, which had fallen to the share of the complainant.*

*6. There is no wrangle amongst the contesting parties that a civil suit, concerning the dispute of shares, is pending inter se the complainant and the co-accused/non-applicant Keshav Goel, before the civil court concerned.*

*7. The learned counsel appearing for the petitioner submits that the entire episode, pertaining to alleged fraudulent sale of flats, occurred prior to 2021, when the petitioner was not even a partner in the partnership firm, as he became inducted in the partnership firm in the year 2022. He further submits that even if the whole facts are read in entirety and are treated as gospel truth, yet no criminal offences are made out as such, as the present dispute is purely civil in nature, qua which civil litigation is pending before the civil court concerned. Therefore, he submits that the petitioner has*

*been falsely entangled in the alleged act of fraud and deserves the asked for concession of anticipatory bail.*

*8. Mr. Anil Kumar Rana, Advocate, who appears on behalf of the complainant, though has vociferously opposed the grant of asked for relief, however, upon a specific query being put to him, inasmuch as, how the alleged act(s) and role(s), as attributed to the present petitioner, constitutes a criminal offence, he is unable to satisfy this Court on that aspect.*

*9. Notice of motion for 11.12.2023.*

*10. Mr. Bhupender Singh, D.A.G., Haryana, accepts notice on behalf of State of Haryana.*

*11. In the meantime, the petitioner is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C."*

Learned counsel for the petitioner submits that in pursuance of the order dated 06.11.2023, the petitioner had joined the investigation.

Learned State counsel, on instructions from ASI Sandeep, submits that the petitioner had joined the investigation and he is not required for any further custodial interrogation.

In view of the statement made by learned State counsel, the interim order dated 06.11.2023, is hereby made absolute.

31.01.2024  
amandeep

(KULDEEP TIWARI)  
JUDGE

Whether speaking/reasoned. : Yes/No  
Whether Reportable. : Yes/No