

CRM-M-61066-2023
Date of decision: 24.01.2024

....Petitioner

Versus

...Respondent

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

On 05.12.2023, the following order was passed:-

Learned counsel for the petitioner, inter alia, contends that the FIR was lodged on the allegations that a plot measuring 500 sq. yard was sold to one Dharmender Kumar and out of the sale consideration of Rs.10 lakhs, Rs.3,50,000/- was received by the petitioner and the

remaining amount of Rs.7 lakhs was received by the petitioner and one Kanhaiya Lal Chaudhary jointly. It is further contended that no sale has taken place pursuant to the alleged agreement to sell and the petitioner is not the signatory of the agreement to sell. Moreover, the person, who is alleged to have purchased the plot in question, has not lodged the present FIR, thus, only the victim could have locus standi to launch the criminal prosecution.

Notice of motion.

On the asking of the Court, Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent- State and opposes the prayer for grant of anticipatory bail to the petitioner.

At this stage, Mr. Manoj Kumar Sood, Advocate has put in appearance on behalf of the complainant and opposes the prayer for grant of anticipatory bail to the petitioner on the ground that he is not even a member of the society and has sold another plot in spite of injunction granted by the Civil Court.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 19.12.2023 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2)*

Cr.P.C.

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 24.01.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court. '

Learned State counsel on instructions from ASI Raj Singh, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 05.12.2023 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

24.01.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No