

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

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Crl. Misc. No. M- 6800 of 2008

Date of Decision:- 30.4.2009

Davinder Mongia

.... Petitioner

Versus

State of Punjab

.... Respondent.

Present:- Mr. Vikram Chaudhri, Advocate for the petitioner.

Mr. P.S.Sidhu, Addl. A.G., Punjab.

Mr. J.S.Chahal, Advocate, for the complainant.

M.M.S.BEDI. (J) (Oral)

Petitioner along with his brothers Krishan Lal Mongia and Ram Narain Mongia, through their general power of attorney Sandeep Mongia had allegedly executed an Agreement to Sell on 3.5.2005 with the complainant-company for the sale of their property measuring 250 Sq. Yards viz Plot No. 310, Industrial Area A Cheema Chowk Ludhiana for consideration of Rs.7 lakhs. A sum of Rs. 50,000/- is alleged to have received as earnest money. The said property was allegedly sold to Vinay Aggarwal and others. A civil suit dated 11.11.2006 filed by the complainant for specific performance is stated to have been pending before the Civil Court at Ludhiana.

Learned counsel for the complainant has opposed the application for pre-arrest bail contending that a wrongful loss has been occurred to the complainant-company as petitioner after breach of agreement with fraudulent intentions sold the property for Rs.23,50,000/-.

After hearing learned counsel for the parties, it appears that the dispute regarding specific performance of the agreement is already pending

before the Civil Court. Though, the civil dispute was pending w.e.f. Year 2006, the FIR was registered in the year 2009. Matter is admittedly a case of civil liability also. However, the rights of the complainant vis-a-viz the petitioner and others are to be determined by the Civil Court. Petitioner having joined investigation, this petition can be allowed.

Accordingly, the petition is allowed. It is ordered that in case of arrest of petitioner, he will be released on bail to the satisfaction of the Arresting Officer, subject to the condition that he will join the investigation as and when required by the police and that he will not tamper with the evidence or hamper the investigation in any manner. It is specifically observed that anything observed in this order will not in any manner effect the rights of the complainant or the petitioner in the civil litigation pending inter se the parties.

April 30, 2009
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(M.M.S.Bedi)
Judge