

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49411-2024
Reserved on: 13.11.2024
Pronounced on: 29.11.2024

Naresh Kumar ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nitin Kumar Sharma, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0159	31.03.2023	Krishana Gate, Thanesar, District Kurukshetra	406, 420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“xxx xxx the gist of complaint are as under:-

The above mentioned accused persons are the resident of the Village Bishangarh, Tehsil Thanesar District Kurukshetra and is a property dealer. In January, 2022 the above mentioned accused persons told their acquaintance that they have purchased a land at Darrakhurd, Kuber Nagar, Thanesar, District Kurukshetra. They are carving the said land into plots and colony and they are selling the plots to the public less than the market rates. In the meantime accused Jasvinder Kaur and Rani met the aunt (mami) namely Mukesh Rani (Mami of complainant Mukesh Kumar) and said that you are known to us, we will give you this plot at a lesser

rate and they allured my mami Mukesh Rani and entered into an agreement with her with Rajender Singh in full payment on dated 17.02.2022 for 1 kitta plot share no. 63 and 64 total rakba 200 sq yards khewat no.66 khatoni no. 107 for total Rs.8,60,000/- out of total amount Rs.2,60,000 cheque no. 125861 dated 14.02.2022 Punjab National Bank Kurukshetra Rs.6,00,000/- RTGS through Axis Bank was sent to the Federal Bank account of Rajender Kumar Railway Road Thanesar. The aforementioned amount was received from my mami Mukesh Rani and after showing the plot measuring 200 square yards at Darrakhurd, Kuber Nagar told her that you are the owner of this plot and can use it in whatever manner you like. Similarly an agreement dated 17.05.2022 was entered into by the accused persons through Rajender Singh in favour of the wife of the complainant Krishana Rani of a plot no.55 and 56 share darakhurd Kuber Nagar measuring 162 sq yards Rs.4200 per sq. yard for an amount of Rs. 6,80,400/- out of which Rs.2,88,500/- was given through cheque No.000592 Bank of Baroda account no. 65730100xxxxxx to UTR no BARBR 5202592 to the bank account of Rajender Kumar S/o Sh. Baldev Singh account Rs.3,91,900/- received in cash and said that once the registry is done we will get the registry and also showed a plot to the complainant and his wife at Kuber Nagar and said that you have become the owner of the same.

It is further alleged that the accused persons entered into four different agreements with the complainant for plot no.17, Darrakhurd, Kuber Nager at the rate of Rs. /- for Rs.8,23,200/- out of which 3,86,400/- was paid through cheque no 00041, bank account number 65730100xxxxxx BARBR Rs 520241 UTR no of Baroda and Rs. 4,36,800/- was received in cash. All the above mentioned agreements were entered into by Jasvinder Kaur and Rani through accused Rajender Singh whereas, all the accused persons used to be present at the time of agreement and all the accused persons used to have the knowledge of each of the agreement as to which plot number has been sold to whom and how much amount has been received". On these allegations the above noted FIR was registered against the present accused-petitioner and his co-accused."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State’s counsel opposes bail and refers to the status report.
6. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.
7. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.
8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:
- | | | |
|----|--|--|
| 1. | AADHAR number | |
| 2. | Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk. | |
| 3. | Mobile number (If available) | |
| 4. | E-Mail id (If available) | |
11. This order is subject to the petitioner’s complying with the following terms.
12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section

27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. The necessary steps, such as interrogating the petitioner, must be taken to recover the money. If the investigator fails to recover the money, the State shall be at liberty to file an application for cancellation of this bail.

14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

16. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

29.11.2024

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.