

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28702 of 2019
Decided on: 14.11.2019

Binay Kumar Chaudhary

...Petitioner

Versus

State of Haryana & Anr.

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

**Argued by : Mr. Manoj K. Tanwar, Advocate
for the petitioner.**

Mr. S.K. Vashisth, DAG Haryana.

**Mr. Rajesh Lamba, Advocate
for respondent No.2.**

ARUN MONGA, J.

1. Instant petition under Section 439(2) of Code of Criminal Procedure has been filed by the complainant/ petitioner seeking cancellation of anticipatory bail granted by this Court to respondent No.2-accused, vide order dated 26.06.2019 in CRM-M-26670 of 2019.

2. I have heard learned counsel for the petitioner-complainant as also learned State counsel and learned counsel for respondent No.2-accused and have gone through the record appended with the petition.

3. Order dated 26.06.2019 was passed essentially on the inability of learned counsel representing the complainant to convince the Court with regard to the contention of having made cash payment of Rs.30 lacs, without any corroborative document.

4. In the present petition, receipt(Annexure P-3) has been appended, issued by respondent No.2-acused for having received Rs.30,11,000/- towards advance for the property/ land in question, which was proposed to be sold to the petitioner-complainant.

5. That apart, pursuant to issuance of notice, an affidavit has been filed by Mr. Satender Kumar, Assistant Commissioner of Police, Sohna, wherein it has been deposed that investigation/ disclosure statement of respondent No.2-accused has revealed that he had indeed received Rs.10 lacs through RTGS from the petitioner and he has admitted that he has also received Rs.30,11,000/- in cash.

6. In the aforesaid premise, it has been deposed in the affidavit that the prosecution has no objection if the anticipatory bail of respondent No.2-accused is cancelled by this Court.

7. Be that as it may, it does seem that this Court was misled into passing the order granting anticipatory bail to respondent No.2-accused, believing that no transaction of cash amount, at the time of passing of order dated 26.06.2019, took place.

8. In view of the admission/ statement of respondent No.2-acused recorded in the course of investigation coupled with the receipt contained at Annexure P-3 *prima facie* it seems that cash amount was paid by the petitioner-complainant qua which receipt has also been issued by respondent No.2-accused.

9. In the premise, order dated 26.06.2019 granting anticipatory bail to respondent No.2-acused is recalled and the protection of anticipatory bail granted to him is withdrawn. It is, however, made clear that any observations made in this order are only *prima facie* and shall not effect the

merits of the case in the criminal trial arising out of FIR No. 32 dated 11.02.2019, under Sections 420, 415, 467, 468, 471, 506 IPC read with Section 34 and 120-B IPC, registered at Police Station Bhondsi, District Gurugram.

10. The prosecution/ investigating Officer shall be at liberty to take appropriate steps for making recoveries in accordance with law.

11. Petition stands allowed accordingly.

(ARUN MONGA)
JUDGE

November 14, 2019
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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |