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

Date of decision-30.09.2019

1. CRM-M-35973-2019 (O&M)

Onkar Singh Pahwa

....Petitioner

Vs.

State of Punjab and another

...Respondents

2. CRM-M-37108-2019

Onkar Singh Pahwa

....Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.S.Rai, Senior Advocate with
Mr. Saurabh Kapoor, Advocate for the petitioner.

MANOJ BAJAJ, J.

CRM-29884-2019

Application is allowed as prayed for.

Annexures P-7 to P-13 are taken on record.

Main case

The above mentioned two petitions have been filed under
Section 439 (2) Cr.P.C for cancellation of anticipatory bail granted to

respondent No.2, namely, Gagandeep Singh (in CRM-M-35973-2019) and Sukhraj Kaur (in CRM-M-37108-2019) vide order dated 06.07.2019 passed by learned Additional Sessions Judge, Ludhiana in case FIR No.121 dated 24.05.2019 registered under Sections 420 and 120-B of Indian Penal Code, 1860, Police Station Sahnewal, District Ludhiana.

Learned Senior counsel appearing on behalf of the complainant/petitioner submits that FIR No.121 dated 24.05.2019 was registered for the offences punishable under Sections 420 and 120-B IPC, on the allegations of breach of agreement to sell dated 26.03.2019, executed between complainant/petitioner and Gagandeep Singh son of Lt.Jatinder Singh Swani (respondent No.2) and his mother Sukhraj Kaur wife of Lt.Jatinder Singh Swani. He submits that a sum of Rs.10,50,00,000/- was fixed as a sale consideration for execution of the sale deed which was scheduled to be registered on 04.04.2019. However, instead of executing the same, a civil suit was brought by Sukhraj Kaur and Gagandeep Singh to challenge the agreement to sell dated 26.03.2019. He contends that considering the sale consideration amount, learned Additional Sessions Judge, Ludhiana has exceeded its jurisdiction in extending the concession of pre arrest bail to accused persons by completely ignoring the conduct of the accused who just one day before the date of execution of the sale deed, brought the civil suit on the ground that the interest of the minor (grand-daughter of Sukhraj Kaur) in the property in question could not have been sold.

During the arguments, it is not disputed by learned Senior

counsel that amount of Rs.10,50,00,000/- was not paid at the time of execution of the agreement dated 26.03.2019 and was in fact given to the owners of the said property in between 07.09.2015 to 16.10.2018 by way of different cheques as the said persons who were Directors of M/S Swani Motors Services Private Limited were in need of financial help. Since they were unable to return the said amount, therefore, the agreement to sell was executed. It is also not disputed by Mr. Rai that civil suit has been filed by both the sides. According to him, learned Additional Sessions Judge has wrongly extended the concession of anticipatory bail on the ground that the dispute is of civil nature.

After hearing learned Senior counsel and perusing the impugned order, this Court finds that the said concession has been extended to the accused after taking into account the facts and circumstances of the case. The transactions between the parties and the execution of the agreement and pendency of the civil suits itself reflect that there is not much of conflict as far as facts regarding transaction are concerned. It is evident that the entire case of the complainant is founded on the documentary material and therefore, there was no justification for custodial interrogation of the accused particularly when the State had mentioned before the Court that the accused joined the investigation and nothing was to be recovered from them.

Apart from the above, it is not a case where the concession extended by the Court was misused by the accused persons warranting interference under Section 439 (2) Cr.P.C. It is settled law that the

concession once extended can only be withdrawn or cancelled in case it was obtained by misleading the Court or the said concession was misused by the accused. Learned Senior counsel fairly states that in the present case, the said concession has not been misused by them.

In view of the above, this Court finds no reason to invoke the jurisdiction under Section 439(2) Cr.P.C.

Both petitions fail and are dismissed.

30.09.2019

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(MANOJ BAJAJ)

JUDGE

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