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

CRM-M-41118-2021

Date of decision : 01.10.2021

Jaspal Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. P.S. Mirpur, Advocate for the petitioner.
(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.204 dated 24.12.2019 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station Maur, District Bathinda.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was bona fide purchaser and had purchased the land in question and the sale deed dated 18.07.2019 was duly executed by the complainant-Jeeto alongwith other co-sharers and the said Jeeto had herself appeared before the office of Sub-Registrar at the time of registration of the sale deed. It is further submitted that co-accused of the petitioner namely Harpal Kaur who was also the purchaser as well as Jagdev Singh and another, who had sold the property, have already been granted the concession of anticipatory bail in the present FIR. It is further submitted that a civil suit had been filed by the complainant in the present case challenging the sale deed and the parties would be bound by the adjudication in the said

Civil Court. The case is based on documentary evidence and thus, the custodial interrogation of the petitioner is not required. It is also argued that in the present case, ever since the petitioner learnt about the dispute, he stopped the payment and thus, the complainant had instituted the case under Section 138 of the Negotiable Instruments Act, 1881. It is submitted that the payment was not made with respect to the cheque as the complainant has challenged the sale deed and in case, the complainant withdraws the said civil suit and gets mutation sanctioned, then, the petitioner would have no objection to pay the amount of the cheque.

Notice of motion.

On advance notice, Mr. Karanbir Singh, AAG, Punjab, appears and accepts notice on behalf of the State. Although, he has opposed the present petition for grant of anticipatory bail to the petitioner but however, could not deny the fact that the co-accused of the petitioner have already been granted the concession of anticipatory bail.

Keeping in view the abovesaid facts and circumstances, moreso the fact that the present case is primarily a case having civil tappings and even the civil suit has been filed by the complainant with respect to the sale deed which has been executed and it seems that the present FIR has been registered only to exert pressure on the petitioner so as to render an unfair advantage in the civil dispute and the fact that the document, which as per the complainant was a partition deed but is a sale deed, which is a registered document carrying a presumption with it and the same has to be rebutted, thus, the Civil Court would be the competent Court to adjudicate the matter after the evidence is led by the parties.

The registration of the FIR cannot be used as a handle to recover the money from the petitioner and in case, the case of the complainant is found to be genuine then, the Civil Court would grant the necessary relief to the complainant. The co-accused of the petitioner namely Harpal Kaur who is also the purchaser as well as the seller-Jagdev Singh and another, have already been granted the concession of anticipatory bail. The present case is based on the documentary evidence and thus, the custodial interrogation of the petitioner, who is stated to be a 59 year old lady, is not required.

In view of what has been observed above, the present petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

01.10.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**