

**201 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM M-9904-2021 (O&M)
Date of Decision: 27.05.2022**

Ashok Kumar and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. L.S. Sidhu, Advocate for the petitioners.

Mrs. Akshita Chauhan, AAG Punjab.

Mr. K.K. Garg, Advocate,
for respondent No.2.

MAHABIR SINGH SINDHU. J.

Present second petition has been filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to the petitioners in FIR No.129 dated 10.12.2018 under Section 420 IPC registered at Police Station City-2, District Mansa.

2. Above FIR was registered on the basis of statement made by one Charanjit Pal Jindal son of Sh. Krishan Chand Jindal, resident of Ward No.3, Green Park, New Delhi with the allegations that accused No.2 Narinder Kumar is his nephew, who deals in property matters with accused No.1-Ashok Kumar. On 08.04.2012 complainant visited house of his sister at Barnala and both the accused offered him one plot situated at Mansa for sale. He agreed to purchase the plot without inspecting the same. Accused obtained a sum of Rs.11 lakh and 50 thousand from complainant as earnest money in the presence of Hamir Singh son of Mohan Singh resident of Ward No.20, Barnala and Dr. Gurmeet Singh, resident of Bus Stand Road, Barnala. On 09.04.2012 both of them handed over one agreement to

sell executed by one Manoj Kumar to complainant and according to which, the last date for execution of sale deed was fixed as 05.08.2012. Thereafter, the complainant went back to Delhi. On 13.04.2012, he received a phone call from accused No.2 and complainant paid more amount of Rs.3 lakh to Sunny Singla, who was working as servant of both the accused at Barnala. In lieu of payment, a receipt was issued by Sunny Singla. On 17.04.2012 both the accused along with Pawan Kumar alias Pamma son of Dharampal resident of Barnala came to the house of Hamir Singh at Barnala and they obtained another amount of Rs.14 lakh. Thus, both the accused had obtained a total of sum of Rs.28.50 lakh for the execution of sale deed. When complainant along with his friends reached Mansa on 05.08.2012, then nobody came present to execute the sale deed. Despite making phone calls by complainant, both the accused raised excuses and asked complainant to meet third accused Manoj Kumar. Manoj Kumar told the complainant that neither he had any plot in his name, nor he executed any agreement. The complainant came to know that both the accused prepared some fake agreement to sell and have misappropriated his money, thereby cheated him. Upon enquiry, complainant came to know that the plot mentioned in the agreement to sell was in the ownership of one Daya Rani. She had already executed an agreement to sell in respect of the said plot in favour of Manoj Kumar. Both the accused flatly refused to get the sale deed executed in favour of the complainant.

3. This Court, on 03.03.2021 while granting interim protection, passed the following order:-

“Inter alia contends that although the matter has been compromised between the parties and even quashing petition bearing CRM-M-42475 of 2019 is also pending for 08.04.2021, but the police are insisting for presentation of the challan.

Notice of motion for 08.04.2021.

In the meanwhile, both petitioners are directed to join the investigation and in the event of their arrest, the Investigating Officer/Arresting Officer would admit them to interim bail in the present case till the next date of hearing on their furnishing adequate bail and surety bonds to his satisfaction. The petitioners are also directed to abide by all the conditions as envisaged under Section 438(2) Cr.P.C.”

4. Contends that in terms of the above order, petitioners have joined the investigation and their custodial interrogation is not required.
5. The above factual position is duly acknowledged by learned State Counsel, on instructions from the police official concerned and submitted that custodial interrogation of the petitioners is not required at this stage.
6. In view of above, interim order dated 03.03.2021 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
7. It is also made clear that petitioners shall fully co-operate with the Investigating Officer as and when called for further investigation.
8. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
9. Disposed off accordingly.

27.05.2022

SN

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No