IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-11118-2022 (O&M)

Date of Decision: 31.10.2022

Mahipal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ketan Antil, Advocate, for the petitioner.

Mr. Abhinash Jain, DAG, Haryana,
assisted by SI Kartar Singh.

Mr. Karan Singh, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.705 dated 14.10.2020, Police Station Sonipat city, District Sonipat, Haryana under Sections 406, 420, 467, 468 and 471 of Indian Penal Code.

2. At the time of issuance of notice of motion on 16.03.2022, the following order was passed:

> "The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.705 dated 14.10.2020, Police Station Sonipat city, District Sonipat, Haryana under Sections 406, 420, 467, 468 and 471 of Indian Penal Code.
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> As per the allegations levelled by the complainant, her husband Rohtash Sharma had purchased a plot measuring 315 Sq.Yds. from Satish in the year 2009 for an amount of Rs.15 lakhs approximately by way of a 'full payment agreement'. It is alleged that on 1.5.2018 said Satish alongwith present petitioner Mahipal purchased back the said plot for an amount of Rs.44 lakhs and two cheques towards the consideration amount were given to the complainant. It is alleged in the FIR that the said cheques

had been issued from the account of one Arif Khan. It is alleged that the said cheques, upon presentation, were, however, dishonoured. Subsequently, the accused in order to save themselves from the consequences, executed a sale-deed on 15.11.2018 in favour of Rohtash Sharma. However, subsequently it transpired that infact the property in question already stood sold in the year 2012. It is alleged in the FIR that when a complaint was made to the police in the year 2019, the accused were called to the police station and where they gave a cheque for an amount of Rs.9 lakhs and also assured that another amount of Rs.7 lakhs would be paid by cash and also entered into an agreement for sale of a plot measuring 200 Sq.Yds. to the complainant. However, the said cheque for an amount of Rs.9 lakhs upon presentation was dishonoured. It is alleged that even the plot measuring 200 Sq.Yds. in respect of which agreement was entered into by the accused was not in the ownership of the accused. It is further alleged that on account of the conduct of accused, her husband remained under tension and ultimately expired on 21.6.2020.

Learned counsel for the petitioner submits that even if the allegations as levelled in the FIR are taken to be correct, it is co-accused Satish, who can be said to have defrauded the complainant and that the petitioner is neither a signatory to any agreement nor to any sale-deed nor to any affidavit or power of attorney and nor had received any amount.

Learned counsel has further submitted that infact the petitioner had some monetary transactions with co-accused Satish and that on his asking he had transferred an amount of Rs.7 lakhs by way of two transactions i.e. one dated 2.5.2019 and another dated 4.5.2019 in favour of Rohtash Sharma as would be evident from the bank account statement (Annexure P-3) in respect of bank account of the petitioner. It has further been pointed out that infact co-accused Satish (now deceased) had also transferred an amount of Rs.4 lakhs to the bank account of the complainant Saroj Kumari wife of Rohtash vide transaction dated 24.8.2020 as would be evident from the bank account statement (Annexeure P-2) of late Sh. Satish.

Notice of motion for 31.10.2022.

> Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C."

3. Learned State counsel assisted by learned counsel representing the complainant has opposed the petition on the ground that the petitioner in active connivance with Satish Kumar had defrauded the complainant's husband. Learned State counsel upon instructions has, however, informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation, but is not fully cooperating inasmuch as he is not furnishing the whereabouts of the co-accused Kiran. Learned State counsel has also informed that the petitioner otherwise is not involved in any other case.

4. Having regard to the aforestated facts and circumstances of the case and while noticing that the petitioner has joined investigation and otherwise has a clean record, the petition is accepted and the interim directions issued by this Court vide order dated 16.03.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

31.10.2022 **(GURVINDER SINGH GILL)**
Vimal **JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**