

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

**201/2**

**CRM-M-16895 of 2021  
Date of Decision:13.01.2022**

**Kaushalya**

**..... Petitioner**

**Versus**

**State of Haryana**

**..... Respondent**

**CRM-M-12470 of 2021**

**Kaushalya and another**

**..... Petitioners**

**Versus**

**State of Haryana and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Sandeep Punchhi, Advocate,  
for the petitioners.

Mr. Anmol Malik, DAG, Haryana

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**AMOL RATTAN SINGH, J. (ORAL)**

Case heard via video conferencing.

**CRM-M-12470 of 2021**

By this petition, quashing of FIR No.0042, dated 27.02.2021, is sought, registered at Police Station Nathusari Chopta, District Sirsa, for the alleged commission of offences punishable under Sections 418, 420, 467 and 468 of the IPC, read with Section 34 thereof.

After arguing for some time, learned counsel for the petitioners

submits that he does not press this petition and wishes to withdraw it, with liberty to take all pleas as are legally available to the petitioners, before the trial court.

Naturally, no court can deny the petitioners the liberty to take whatever defence that they wish to before the trial court, which obviously would be considered on its own merits.

Consequently, this petition is dismissed having been withdrawn, with the aforesaid liberty, with no comment made by this court on the actual merits of the case.

The reply filed on behalf of the respondent State is ordered to be taken on record.

**CRM-M-16895 of 2021**

Vide this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., in the context of the same FIR.

The reply dated 04.01.2022, filed on behalf of the respondent State, is ordered to be taken on record.

Learned counsel for the petitioner submits that a similar petition filed by the husband of the petitioner and her co-accused, i.e. Mahender Singh, already having been dismissed by this court, and she having joined investigation pursuant to the order passed by this court on 23.04.2021, there would be no reason to keep her in custody, also looking at the nature of the allegations and what has been recorded by this court in the said order.

On 23.04.2021 the following order had been passed by this court:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of

anticipatory bail, upon FIR no.42, dated 27.02.2021, having been registered at Police Station Nathusari Chopta, District Sirsa, alleging therein the commission of offences punishable under Sections 418/420/467/468/34 of the IPC.

Learned counsel for the petitioner reiterates that the petitioner is living separately from her husband who had entered into an agreement of sale with the complainant and therefore she in any case cannot be arraigned as an accused in the FIR.

In support of his contention that she is living separately from her husband (Mahender), he points to the “certificate” shown to be issued by the Numberdar of village Hanjira, District Sirsa, as is sought to be placed on record as Annexure P-8 with a connected petition, i.e. CRM-M-12470 of 2021, by which the same petitioner seeks quashing of the FIR in question.

However, whether the petitioner is living separately from her husband or not may not make any difference because in any case, admittedly, even as Mr. Punchhi has argued today, upon her husband having entered into an agreement of sale qua the land in question, the petitioner called for a Panchayat in the village and on the directions of the Panchayat (as contended), her husband transferred the land in question to her after the agreement of sale was entered into.

He has further submitted that it was necessary for her to call for a Panchayat because her husband was selling the land at a throwaway price because he is a drunkard (again as contended), and therefore the petitioner, to protect herself and her children, had no other option.

Obviously therefore, the transfer of land by her husband (co-accused), to her, was with the active participation of the petitioner upon her coming to know of the agreement of sale.

Upon query to learned counsel as to whether she filed any civil suit for cancellation of the agreement of sale, he replies in the negative, but submits that the complainant has filed a suit seeking specific performance of the agreement of sale.

Notice of motion.

Mr. Neeraj Poswal, learned AAG, Haryana, accepts notice at the asking of the Court.

Mr. Lupil Gupta, Advocate, appears for the complainant and submits that the petitioner being in collusion with her husband as regards the transfer of land after an agreement of sale was entered into by the complainant with her husband, she does not deserve to be admitted to anticipatory bail.

Having considered the matter, though otherwise I would be agreeable with learned counsel for the complainant, however, the petitioner being a lady and the possibility of what her counsel has stated, to the effect that she got the land transferred due to a possible sale of land far below the market rate, with it becoming a question of her survival, as contended, without making any comment on the actual merits of the case, the petitioner is directed to join investigation within 5 days and upon her so joining if she is sought to be arrested, she shall be released on bail, on her furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

She shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioner in investigation, she would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join her in investigation, in terms of the order of this court.

A gazetted officer is directed to file a reply to the petition also stating therein as to whether the sale of the land seems to be at a rate far below the prevailing market rate or not.

Adjourned to 21.5.2021. ”

Learned State counsel though could not deny that the petitioner has

joined investigation, however opposes the petition on the ground that the petitioner and her husband being hand in glove in duping the complainant, the interim order passed in her favour may not be made absolute.

Having considered the matter, without making any comment on whether or not the petitioner was actually hand in glove with her husband or not, which would be a matter of evidence to be led before the trial court (if it comes to that stage), I would see no reason to deny the petitioner the concession of bail in the aforesaid circumstances. Hence, again without making any comment on the actual merits of the case, the petition is allowed, with the order dated 23.04.2021 made absolute on the same terms and conditions.

A copy of this order be also placed on the file of the other connected matter too.

**January 13, 2022**  
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**(AMOL RATTAN SINGH)**  
**JUDGE**

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable        | No  |