

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

**CRM-M No. 22472 of 2022
Date of Decision: 23.05.2022**

Bahadar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Judgepreet Singh Warring, Advocate, for the petitioner.

Mr. Bhupender Beniwal, Assistant Advocate General, Punjab

Mr. Tarun Jhatta, Advocate for the complainant.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition cast under Section 438 Cr.P.C., seeks grant of anticipatory bail in case FIR No. 33 of 11.03.2022, which was registered against him, at Police Station Nathana, District Bathinda, constituting therein an offence under Section 420 of the Indian Penal Code.

2. The incriminatory role, as, assigned to the bail applicant – petitioner in the petition FIR, is of his despite drawing a contract of sale in respect of the petition property with the victim, and, also his receiving earnest money from him, comprised in a sum of Rs. 12 lakh, his yet proceeding, to subsequently execute a registered deed of conveyance in respect of the petition property with one Harpreet Kaur.

3. The learned counsel appearing for the respondent – victim, vehemently opposes the granting of the craved for indulgence to the present petitioner, unless a direction is made, upon, the petitioner to deposit a reasonable percentum of the earnest money, as, became received by him,

in contemporaneity to the drawings of the sale contract amongst him, and,

the victim. He submits that the afore be ordered to be regulated by the outcome of the trial, as, becomes entered into the petition FIR, before / by the learned Magistrate concerned, as, it may work as victim compensation, to him, after, may be a verdict of conviction, becoming pronounced by the learned Magistrate concerned, upon, the charges concerned, as, may become drawn against the petitioner.

4. However, the above made prayer cannot be accepted, as a civil suit (Annexure P-2), has been instituted, at the instance of the aggrieved, against the present petitioner, and, also qua his alienee, one, Harpreet Kaur, rather before the learned Civil Judge concerned. In the civil suit, the victim has claimed for rendition of a decree of specific performance in respect of the sale contract drawn inter se, him, and the present petitioner.

5. Though, the learned counsel for the aggrieved-victim submits, that during the pendency of the civil suit, Harpreet Kaur has made further alienations of the petition property to one Amarjeet Kaur wife of Satya Narayan Singh. Therefore, he submits that the victim becomes incapacitated to rear any relief of his being a bona fide purchaser without notice, and, for value, of the petition property.

6. Nonetheless, the above fact can be raised, and, can also be asked for an issue qua therewith becoming framed, besides for an opportunity for evidence becoming returned thereons by the litigants' concerned. Since, only the learned Civil Judge concerned, can make a decision in respect of the alienations concerned, rather being within or outside the realm of each being bona fide purchasers without notice, and, for valuable consideration of the petition property, whereas, this Court, is

decision whether the sale transaction which has occurred, during the pendency of the civil suit concerned, was or not within or outside the doctrine of *lis pendens*.

7. Be that as it may, even if the civil suit instituted, by the victim, hence claiming therein relief of rendition of a decree of a specific performance in respect of the petition agreement(s) to sell, may rather become dismissed, thereupon, the learned Civil Judge concerned, may in lieu thereof, make a decree for refund of the earnest money, if proved, to be received by the bail petitioner, from the aggrieved, rather in incontestability to the drawings of the contentious petition agreement to sell. If so, the above would completely mitigate the above grievance raised, before this Court, by the learned counsel for the victim, and, also there would be no necessity, upon this Court, to, as a pre-condition for admitting the present petitioner to anticipatory bail, hence make an order upon him, to deposit some reasonable percentum of the apposite sums, in the establishment of the trial Court concerned, for its working as victim compensation to the aggrieved, in case a verdict of conviction becomes made, in respect of the petition FIR, by the learned trial Judge concerned.

8. In view of the above, and, when also no evidence has been placed on record by the prosecution, suggesting that in the event of the bail applicant being enlarged on pre-arrest bail, there is every likelihood of his fleeing from justice, and, or, tampering with prosecution evidence. Therefore, this Court does not deem it fit to order for the custodial interrogation of the bail petitioner.

9. In sequel, it is ordered that in the event of arrest of the bail applicant-petitioner, he be released on anticipatory bail, by the Investigation

Officer, on his furnishing personal and surety bonds in the sum of ₹ 50,000/- each, before him, and, also subject to his not tampering with prosecution evidence, and/or not influencing prosecution witnesses, and, also, as and when he is summoned by the investigating officer, through a written Hukamnama, his cooperating in the investigations to be made into the offence(s) concerned.

10. Disposed of.

May 23, 2022
'dk kamra'

(SURESHWAR THAKUR)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>