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

**CRM-M-32719-2022 (O&M)
Date of Decision: 23.08.2022**

Parveen Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Saurabh Sharma, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, DAG, Haryana.

Mr. Diwan S. Adlakha, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.39, dated 30.09.2021 under Sections 406, 420, 506 & 120-B IPC, registered at Police Station Sector-7, District Panchkula.

Status report by way of an affidavit of Assistant Commissioner of Police, Panchkula has been filed on behalf of the respondent/State in Court today and the same is taken on record.

It has been submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case and he was only a property dealer wherein he introduced the owners of the property to the complainant and was not the beneficiary of the transaction at all, and therefore, he may be considered for the grant of anticipatory bail.

As per the allegations contained in the FIR, the complainant had lodged an FIR on the ground that he was induced for the purchase of property which was situated in Uttar Pradesh and the petitioner along with the co-accused entered into an agreement to sell and in pursuance thereof, the petitioner and the other co-accused received an amount of Rs.1.5 crores out of the total settled sale consideration of Rs.7 crores with regard to the 72 bighas of land situated at Village Chatrasalli, Savasava Village Saharanpur, Uttar Pradesh.

On the other hand, Mr. Naveen S. Panwar, learned Deputy Advocate General, Haryana has submitted that the land which was the subject matter of the sale agreement was under an attachment by the orders of the Court and the petitioner, who was a property dealer, in active connivance with the other co-accused received an amount of Rs.1.5 crores from the complainant for sale of the land, which could not have been sold. He also submitted that apart from the same, the petitioner had not only cheated the present complainant but two more persons were also cheated by him and reference of the same is given in the affidavit filed by the Assistant Commissioner of Police, Panchkula and while referring to Para 8 of the affidavit, he submitted that there is another complainant, namely, Sonu from whom also the petitioner along with the other co-accused received a sum of Rs.1.5 crores with regard to the same land which is under attachment in the year 2019. Apart from the same, one more complaint was received by Devban Police, Uttar Pradesh with regard to the same land, in which also, the petitioner along with other co-accused received the money. He further submitted that there is one more case being FIR No.673 dated 22.07.2020,

registered against the petitioner on similar kind of allegation at Police Station Bhagwanpura, District Haridwar, Uttarakhand. He also submitted that in fact the petitioner along with the other co-accused formed a gang and its a big racket being operated for selling of the land which are under an attachment by orders in Uttar Pradesh since the year 2019. He further submitted that it is not a case of financial dispute between two persons but it is a case where the dishonest intention was there at the inception level and the same is clear from the fact that with respect to one land, money was received from three different persons, which is for crores of rupees. He also submitted that considering the aforesaid facts and circumstances and the antecedents of the petitioner his custodial investigation is required to ascertain the facts as to how the conspiracy was formed and with how many other persons and with respect to how many other land such kind of fraud has been committed.

Learned State counsel has also relied upon the judgment passed by the Hon'ble Supreme Court in “*State represented by C.B.I. Vs. Anil Sharma*”, (1997) 7 SCC 187, to contend that for the purpose of ascertaining truthful position in such like cases, custodial investigation becomes necessary for qualitative interrogation.

Mr. Diwan S. Adlakha, Advocate has caused appearance on behalf of the complainant and also opposed the grant of anticipatory bail to the petitioner on the ground that the petitioner, along with the other co-accused, has cheated the complainant and an amount of Rs.1.5 crores was given to them. He further submitted that although some amount of money was transferred in the name of other co-accused but thereafter, the petitioner

furnished an affidavit, which has been handed over to the police wherein he has undertaken to return the money, which would go into show that the argument raised by learned counsel for the petitioner that the petitioner was only a property dealer gets demolished, once he himself has executed an affidavit that he will pay back the money.

I have heard the learned counsel for the parties.

The allegations alleged against the petitioner were that he along with the co-accused had taken an amount of Rs.1.5 crores from the petitioner by way of an agreement to sell and the total sale consideration was fixed for Rs.7 crores with regard to the land situated in Uttar Pradesh, which was under an attachment. During the course of arguments, a query was raised to learned counsel for the parties as to how the FIR could have been lodged in Haryana when the subject matter of the property was in Uttar Pradesh, to which learned State counsel as well as learned counsel for the complainant stated that the entire money transaction and the agreement took place at Panchkula and the RTGS money transfer was also done in Panchkula and also the remaining cash amount was handed over to the petitioner and the other co-accused at Panchkula.

Learned State counsel has further submitted that the complainant and the petitioner along with the co-accused repeatedly met each other at Hotel Red Bishop, which is situated at Panchkula where the deal was struck with regard to the land, and therefore, the FIR has been lodged at Police Station Sector-7, Panchkula.

While considering the grant of anticipatory bail, the Court has to strike a balance between the liberty of an individual on one hand and on

the other hand there are various factors, which have to be considered i.e. likelihood of the petitioner that he may abscond, the magnitude, seriousness and the gravity of the offence and various other factors as well. In the present case, it is not the case of one to one breach of contract or financial dispute but it is a case where the allegations are that the petitioner along with the other co-accused received an amount of Rs.1.5 crores with regard to the sale of a property which is under an attachment by the Court and with respect to the same land, as per the learned State counsel, they also received same amount from other two persons. The petitioner is also involved in similar kind of offence in the State of Uttarakhand. Therefore, this Court is of the view that considering the gravity, seriousness and the magnitude of the offence, it is a fit case where the custodial interrogation of the petitioner is required and therefore, this Court does not deem it fit and proper to grant concession of anticipatory bail to the petitioner.

Consequently, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

23.08.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes |