

CRM-M-42271-2022

Date of decision: 27.10.2022

Radhey Shyam

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Namit Khurana, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking pre-arrest bail in case FIR No.489 dated 22.12.2021 under sections 406, 420, 506, 120-B IPC, registered at Police Station Gandhi Nagar, District Yamuna Nagar.

As per the prosecution case, the petitioner entered into an agreement to sell with complainant qua the property i.e. double story house/ plot no. 59, Khasra no.32//26, 27, Mauja Kansapur, Ashok Vihar, Yamuna Nagar, vide agreement dated 28.12.2016 and received an amount of Rs.6 lacs from the complainant and sale deed was to be executed as and when demanded by the vendee and when, in the year 2018, complainant/vendee wanted to get executed the sale deed, then the petitioner put off the matter on one pretext or the other and on inquiry, complainant came to know that real owner of the said property (subject matter of agreement to sell) was found to be one Fateh Bahadur Singh, as per registered sale deed dated 10.01.2005. It is further alleged that accused

Radhey Shyam along with another accused namely Pooja wife of Akhil Kumar, in connivance with each other, had got the sale deed executed in favour of accused Pooja on the basis of photocopy of agreement No.13808 on 24.03.2005, the original copy of which is in possession of the complainant. It is further alleged that when complainant demanded the amount in question from the petitioner, then he refused flatly and also extended threats to eliminate him. Thus, as per the allegations, petitioner deceived the complainant of an amount of Rs.6 lacs under the garb of executing agreement to sell qua the property which was allegedly under the ownership of some other person and that on the basis of some photocopy of deed, the said property is alleged to have been alienated in favour of co-accused Pooja, thereby, defrauding the complainant of a huge amount of Rs.6 lacs.

On issuance of notice of motion, respondent No.1-State of Haryana has filed the reply by way of affidavit of Kanwaljeet Singh, HPS, Deputy Superintendent of Police, Yamuna Nagar and the same is taken on record.

Despite service upon respondent No.2, no one has put in appearance on behalf of respondent No.2.

In Para-2 of the State reply, it has been stated as under:-

'However, gist of the case is that the complainant alleged in his complaint that the petitioner is owner of double storey house situated in Khasra No. 32//26, 27 situated in village Kansapur, Mausma Ashok Vihar. Yamuna Nagar and agreed to sell this house for an amount of Rs.6,00,000/- and received total sale consideration on 28-12-2016 in presence of witnesses and it was agreed that whenever, complainant will desire then he will get the sale deed executed and the original

sale deed no. 13808, dt. 24-03-2005 was given to the complainant. In the year 2018, when complainant requested the petitioner to get the sale deed executed then petitioner averted him on one pretext or other, so he felt suspicious and on inquiry he came to know that the original owner of the property is Fateh Bahadur s/o Kuber Singh vide Sale Deed No. 10966, dt. 10-01-2005. But the petitioner in the month of March, 2005 fraudulently got the sale deed executed in his favour from Fateh Singh by alluring him for loan from bank, whereas, possession remained with Fateh Singh and got the loan facility against mortgage of said house. As such petitioner also cheated Fateh Bahadur. Meanwhile, petitioner got withdrawn the original sale deed from the bank. On further inquiry, the complainant came to know that on the basis of photocopy of sale deed no. 13808, the petitioner also executed a sale deed No. 9161, dt. 09-01-2018 in favour of Pooja, whereas, original sale deed no. 13808 was in possession of complainant. Thereafter, complainant convened a panchayat and in the said Panchayat, the petitioner admitted his guilt and agreed to return an amount of Rs.9,00,000/- to him, but petitioner did not return the aforesaid amount, rather he is threatening the complainant'.

Learned counsel for the petitioner contends that he has been falsely implicated in the present case as it is a civil dispute with regard to the property which has been given a criminal tinge and nothing is to be recovered from him, therefore, his custodial interrogation is not required and that he is ready and willing to join the investigation as and when called upon by the investigating agency.

Per contra, learned State counsel has opposed the grant of bail to the petitioner and has argued that the petitioner has defrauded the complainant of a huge amount of Rs.6 lacs and the recovery of the said

amount is to be made from the petitioner and therefore, his custodial interrogation would be required.

Considering the facts and circumstances of the present case and gravity of the offence, this Court is not inclined to allow the present anticipatory bail application and the same stands dismissed.

27.10.2022

ps-I

(NAMIT KUMAR)
JUDGE

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