

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

208

CRM-M-47746-2021

Date of decision: 17.05.2022

AMANDEEP KAUR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

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

Ms. Bhavna Gupta, DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. Through instant petition constituted under Section 438 Cr.P.C., the petitioner claims relief qua his becoming admitted to anticipatory bail, in respect of the FIR bearing No.145 of 22.09.2021, registered at Police Station City Khanna, Police District Khanna, District Ludhiana, wherein, offences constituted under Section 420 IPC, are, embodied.

2. The present bail petitioner is alleged by the complainant-victim, to under an agreement to sell, and, as drawn inter-se both, rather to receive a sum of Rs. 4,75000/-, an earnest money, from the aggrieved complainant.

3. Furthermore, it is also alleged in the petition FIR, that the afore agreement to sell is stained with penal vices of fraud, and, misrepresentation, in as much as, earlier thereto, the present bail petitioner, had entered into a agreement to sell with one Virsa Singh, and, had also received earnest money from him.

4. The handwriting expert concerned to whom the admitted, and, specimen handwriting of the present bail petitioner became sent for the making of apposite comparisons, rather in his report, has opined that there being similarity inter se the admitted specimen signatures of the bail petitioner, with the questioned writing signatures, as carried in the petition agreement to sell.

5. The relevant portion of the report FSL is extracted herein :-

“ The standard signatures stamped and marked S1 to S46 are consistent and have been executed freely without any sign of imitation in them where as the red enclosed questioned signatures stamped and marked Q1, Q2 and Q3 on the other hand have been executed slowly and hesitantly with much attention being given to the act of writing. The line quality of questioned signatures stamped and marked Q1, Q2 and Q3 exhibit defects such as hesitations, pen pause, pen lifts, blunt starts and finishes of the strokes which are inherently found in the forged signatures. Hence, it has been concluded that the red enclosed questioned signatures stamped and marked Q1, Q2 and Q3 are the forged signatures.”

6. Therefore, prima facie, the present bail petitioner, is the author of the petition agreement to sell, and, also prima facie if, on an earlier date though she entered into agreement(s) to sell with one Virsa Singh, prima facie, thereupon, the ascription of an incriminatory role, to the present bail petitioner, qua hers through practicing vices of fraud, and misrepresentation, rather hers duping him of a sum of

Rs.4,75,000/-, sums whereof, became received as earnest money, by her from the aggrieved complainant, in contemporaneity to the drawings, of the petition agreement to sell, hence may be well founded. However, for the reasons to be assigned hereinafter, this court does not deem it fit, and, appropriate, to a pre condition for admitting to anticipatory bail, the present bail petitioner, rather insist upon her, to deposit some reasonable percentum of the earnest money, as became received by her from the aggrieved complainant, hence for its, working as victim compensation after termination of trial, into the petition FIR.

7. The prime reason for making the above conclusion becomes derived from the factum, that the present bail petitioner instituted civil suit No.61 of 07.03.2011, and, therein, she claimed the rendition of a decree of permanent injunction, against Virsa Singh, and, pointedly the relief (supra) becoming claimed with respect to the petition property.

8. Moreover, another suit bearing Civil Suit No. 151 of 01.06.2011, became also instituted by Virsa Singh, against the present bail petitioner, wherein, he claimed the rendition of a decree of specific performance, in respect of the earlier to petition agreement, to sell, rather a contract of sale becoming drawn inter-se, Virsa Singh, and, the present bail petitioner.

9. A perusal of Annexure P-3, reveals that, both the above civil suits became clubbed, and, ultimately upon analyzing the evidence, as became adduced on both the clubbed civil suits, the learned trial Court concerned, hence, proceeded to decline to Virsa

Singh, the decree of specific performance of the agreement to sell, as became entered into inter se him, with the present bail petitioner.

10. Moreover, a reading of the Annexure P-3 also reveals that, in respect of the Civil Suit filed by the present bail petitioner, qua therein, the claimed therein, rendition of a decree of permanent injunction, rather became granted to her.

11. Though, the above made decrees may have been challenged before the learned appellate Court concerned, but yet, the stark fact, which emanates therefrom, is that the dispute amongst, the prior vendee of the present bail petitioner, in as much as, Virsa Singh, and, the present bail petitioner, and, which becomes the root of the petition FIR, becoming amenable to become construed as a pure civil dispute.

12. Since the above civil dispute remaining yet not terminated though a conclusive, and, binding verdict being made thereons, by the Civil Court concerned. Therefore, unless the validity of the earlier drawn agreements/contract of sale inter se, the present bail petitioner, and, one Virsa Singh, becomes completely terminated, through a valid, and, enforceable decree, rather becoming rendered by the learned Civil Court concerned, thereupto, prima facie the factum of any purported agreement to sell being, fraudulently executed inter se the present bail petitioner, with the aggrieved, as arising from prior thereto, the present bail petitioner entering into a agreement to sell with one Virsa Singh, rather cannot become an impediment to enlarge the petitioner on anticipatory bail.

13. Moreover, the aggrieved complainant victim of the petition FIR, one Manpreet Singh has also instituted a suit for specific performance (Annexure P-4), with respect to the petition FIR, and, a perusal of the written statement instituted, on behalf of the defendant who is the present bail petitioner, reveals, that though she has not denied her making her signatures thereon, but impliedly and tacitly, she has contended therein, that the petition agreement to sell, was a sequel of mis representation, in as much as, she had signed it, under the belief, that some borrowings were made from her, by the aggrieved respondent complainant, in the petition FIR.

14. If so, the substratum of the allegations made in the petition FIR against the present bail petitioner cannot be, at this stage, be assigned, any credence, given rival contentions being raised by the aggrieved petitioner victim complainant, in his civil suit, and, also by the bail petitioner, and, since each become not finally accepted or rejected, through a finally drawn verdict, upon Annexure P-4, by the learned Civil Court concerned. In consequence, this court finds, that the present bail petitioner prima facie may not have committed, the offences contained in the petition FIR.

15. Moreover, and, also when, at this stage, no evidence is adduced before this Court by the prosecution, suggestive of the fact, that in the event of the petitioner, becoming admitted to anticipatory bail, there is every likelihood of his fleeing from justice, and, tampering with the prosecution evidence. In consequence, this Court becomes constrained to admit the present petitioner to anticipatory bail.

16. In nutshell, the instant petition is allowed, and, the order made by this Court on 15.11.2021, is made absolute on the above terms and conditions.

17. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from the FIR (supra).

17.05.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

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