

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

CRM-M-45651-2022

Date of decision: 15.11.2022

Sanjay Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Nitin Meel, Advocate
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, seeking anticipatory bail to the petitioner, who has been booked for having committed the offence punishable under Section 420 IPC, in a case arising out of FIR No.251 dated 03.09.2022, registered at Police Station City-I, Abohar, District Fazilka.

On 07.10.2022, learned counsel for the petitioner made a statement that the petitioner is ready to pay the amount along with interest and therefore, to show his bona fide, the case was adjourned for 11.10.2022.

On 11.10.2022, following order was passed:-

“On 30.09.2022, following order was passed by this Court:-

'Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, who has been booked for having committed the offence punishable under Section 420 IPC, in a case arising out of FIR No. 251,

dated 03.09.2022, registered at Police Station City-1, Abohar, District Fazilka.

Learned counsel for the petitioner submits that execution of agreement is a farce because, in fact, the said document was executed in lieu of private loan taken by the petitioner from the complainant Jagjit Singh. To substantiate the said submission, learned counsel for the petitioner refers to the FIR, wherein contents of agreement to sell, dated 17.12.2020 have been reproduced, and further submits that no details of land, which as per the complainant's version was agreed to be sold by the petitioner, are mentioned.

Learned counsel for the petitioner further submits that the amount taken by the petitioner from the complainant was only for the purpose of getting the land redeemed from HDFC Bank, which was mortgaged against the loan of about Rs. 3,00,000/- taken by the petitioner from said bank.

Notice of motion.

On asking of the Court, Mr. J.S. Arora, Deputy Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State and seeks time to file reply in the matter. Complete copy of the paper book has already been supplied to him.

At this stage, Mr. Neeraj Goel, Advocate, put in appearance on behalf of the complainant and filed his memo of appearance, which is taken on record, subject to all just exceptions. He undertakes to file his vakalatnama in the registry.

Learned counsel for the complainant submits that even if the submissions made by learned counsel for the petitioner are believed, same appears to be misconceived because at the second instance petitioner has mortgaged the land in question with some

other Bank for obtaining another loan.

Adjourned to 03.10.2022.

Replies, if any, be filed on or before the next date of hearing with copies in advance to the learned counsel for the petitioner.”

Thereafter, order dated 07.10.2022, was passed by coordinate Bench of this Court, which says as under:

“Learned counsel for the petitioner states that the petitioner is ready to pay the amount alongwith interest thereupon to show his bona fide.

Counsel for the complainant seeks time to get instructions.

Reply by way of affidavit of Kailash Chander, Deputy Superintendent of Police, Sub Division Abohar, District Fazilka dated 06.10.2022 has been filed in the Court today. The same is taken on record. Copy thereof has been supplied to the counsel opposite.

List on 11.10.2022.'

As per aforesaid order, petitioner has already expressed his bonafide by giving an undertaking to the Court that he is ready to deposit an amount of Rs. 8,35,000/- with the Court (Area Magistrate).

In view of the submission made by the petitioner, matter is adjourned to 10.11.2022.

In the meanwhile, the petitioner is directed to join the investigation as and when required to do so by the Investigating Agency. In the event of his arrest, the petitioner shall be released on ad-interim bail, subject to his furnishing bail bonds to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the conditions laid down under Section 438(2), Cr.PC.

However, concession of interim anticipatory bail order shall be subject to the deposit of an amount of Rs.8,35,000/- (as undertaken by the petitioner hereabove)

before this Court within a period of four weeks from today.

For further consideration, adjourned to 10.11.2022.”

Learned State counsel on instructions from ASI Mohan Lal, submits that the petitioner in terms of order dated 11.10.2022, has not deposited the amount of Rs.8,35,000/- with the Court (Area Magistrate) and therefore, the interim concession of anticipatory bail granted to the petitioner, may be withdrawn as the same was subject to deposit of the said amount.

Learned counsel for the petitioner does not dispute the above said fact that the amount has not been deposited.

Keeping in view the above, since the petitioner has failed to deposit an amount of Rs.8,35,000/-, which was undertaken to be deposited, therefore, the interim order dated 11.10.2022, is withdrawn, and the present petition is dismissed, accordingly.

15.11.2022
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(NAMIT KUMAR)
JUDGE

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