

CRM-M-4042 of 2023

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

CRM-M-4042 of 2023
Date of decision: 25.01.2023

Uday Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. S.S. Biragi, Advocate, for the petitioner.
Ms. Gaganpreet Kaur, AAG, Haryana.
Mr. Hardik Ahluwalia, Advocate,
for Mr. Parminder Singh, Advocate, for the complainant.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.499 dated 12.06.2022 under Sections 216, 406, 420, 467, 468, 471 IPC, registered at Police Station Indri, District Karnal.

FIR in the present case was registered on the complaint submitted by complainant Dharam Chand, who stated that he got acquaintance with petitioner- Uday Singh and Hans Raj during sale of his land. Hans Raj and petitioner were property dealers. They apprised the complainant regarding sale of some land in village Dabkoli Khurd. The complainant signified his willingness to purchase the same as it was located at the bank of road. Therefore, complainant was introduced Mani Ram, owner of the said land. The petitioner alongwith Hans Raj and Mani Ram persuaded the complainant to purchase the land at a sale consideration of Rs.17,50,000/- per acre as they were in dire need of

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money. They also showed him an agreement to sell in which Mani Ram had entered in agreement to sell the land to Saroj Bala daughter of Atma Ram, resident of Dera Bassi, Tehsil and District Patiala, in which target date for execution of sale deed was fixed for 15.04.2022. All the above three culprits assured the complainant to get execute and register the sale deed directly in his name on 15.04.2022. After that an agreement dated 04.12.2021 was reduced in writing between the brother of complainant and Mani Ram for sale of 40K-0M land as per Jamabandi for the year 2015-16, comprising in Khewat No.60 Kittas 28, total area 217K-18M for Rs.17,50,000/- per acre. The complainant also paid Rs.10 Lakhs to Mani Ram at the instance of co-accused Uday Singh and target date was fixed for 15.04.2022. The petitioner/accused and co-accused Hans Raj also took Rs.1,07,000/- from him towards commission. On 15.12.2021 the complainant also paid Rs.5 Lakhs to Mani Ram at the instance of petitioner/accused and co-accused Hans Raj and receipt thereof was scribed on the back side of agreement to sell as well as got attested from Notary Public, Karnal. It is alleged that Mani Ram, petitioner/accused and co-accused Hans Raj did not arrive in Tehsil Indri on target date i.e. 15.04.2022 for execution and registration of sale deed as per their promises nor did they pick phone call of the complainant. Later on, the complainant discovered that there was no agreement between Mani Ram and Saroj Bala regarding aforesaid land and therefore, complainant felt cheated.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present

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case. He submits that the petitioner has been working as a property dealer with Hans Raj and the only allegation against the petitioner is that he along with Hans Raj took Rs.1,07,000/- as commission from the complainant. He further submits that he did not sign the agreement to sell executed between Mani ram and Saroj Bala and thereafter between Saroj Bala and the complainant and no specific role has been attributed to him. He further submits that the petitioner is not involved in any other case and, therefore, he may be granted the concession of pre-arrest bail in the present case.

Per contra, learned State counsel, who appears on receipt of advance notice, assisted by learned counsel for the complainant, submits that in the initial investigation it has come on record that the petitioner along with co-accused Hans Raj allured the complainant to buy the land which was allegedly in the name of Mani Ram and whereas no such land was existing in the name of Mani ram and the agreement between Mani Ram and Saroj Bala was also forged as Saroj Bala had denied the execution of such documents as well as her signatures thereon and since the petitioner along with co-accused has duped the complainant and also forged the documents, his custodial interrogation is required. Moreover, investigation is at the initial stage.

I have heard learned counsel for the parties and perused the record.

Earlier the petitioner had filed the petition for grant of pre-arrest bail before the Court of learned Additional Sessions Judge,

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Karnal, which was dismissed vide order dated 20.12.2022 by recording following findings: -

“7. There are specific allegations against the petitioner/accused and that he along-with co-accused Hans Raj was working as a property dealers. He persuaded the complainant Dharam Chand (wrongly mentioned as Mani Lal) for purchase the land of Mani Ram, which was not in existence at that time in the name of Mani Ram. Further the petitioner-accused persuaded the complainant to believe that an agreement in the name of Mani Ram and Saroj Bala is also existing and thereafter, the sale deed would be executed directly in his name on the basis of said agreement. However, the said agreement also found forged in view of the statement of Saroj Bala. Thus, all the circumstances, clearly indicates that petitioner-accused involved in this case and his custodial interrogation is required for discovering the mode and manner of preparation of forged documents. Therefore, in the facts and circumstances of the case, I am not inclined to exercise extra-ordinary discretion of granting concession of anticipatory bail in favour of accused and thus, instant application is hereby dismissed.”

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

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There are specific allegations against the petitioner and investigation in the present case is at initial stage. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses and for finding the truth and to collect the instruments used to prepare the forged agreement to sell.

Reliance can be placed upon the Hon'ble Supreme Court dictum passed in *Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598* and *Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364* whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

The petition is accordingly dismissed.

(NAMIT KUMAR)
JUDGE

25.01.2023
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No