

CRM-M-19899 of 2023

2023:PHHC:056735

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

CRM-M-19899 of 2023

Date of decision: 21.04.2023

Janak Raj Garg

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Rajesh Bansal, Advocate, for the petitioner.
Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0081 dated 01.04.2023 under Sections 406, 420, 120-B IPC, registered at Police Station Cheeka, District Kaithal.

2. Present FIR has been lodged on the complaint of Balwinder Singh stating therein that he was known to petitioner-Janak Raj, who was involved in the business of broker of sale and purchase of land. Petitioner contacted him and others and represented that he has commercial land on Pehowa road and is suitable for setting up an industry and then had shown the land and further told about the owners of the land while stating that there is no Court case or other matter pending before the Court. On his asking and representation, the complainant and his friends got ready to purchase the land measuring 9 kanals 10 marlas for a consideration of Rs.3,38,00,000/- after meeting the owners of the land as arranged by Janak Raj and thereafter,

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agreement to sell dated 17.11.2021 was executed and complainant handed over Rs.85,00,000/- to the owners. Lateron when the complainant and others went to construct a boundary wall at the land in question, other co-sharers came on the spot and said that land is disputed one and *status quo* has been ordered to be maintained by the Hon'ble Supreme Court and a civil litigation is pending at civil Courts Guhla. Thus the accused persons had falsely represented and cheated the complainant.

3. Learned counsel for the petitioner has submitted that petitioner is innocent and has been falsely implicated in the present case. He further submitted that petitioner is not the beneficiary nor a property dealer. He further submitted that petitioner is totally a stranger to the dispute between the vendor and the vendee. He further submitted that petitioner is not involved in any other case and he is ready and willing to join the investigation.

4. Per contra, learned State, who has appeared on receipt of advance copy of the paperbook, has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that there are specific allegations against the petitioner, therefore, his custodial interrogation is necessary to unearth entire controversy.

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

6. As per allegations against the petitioner, he arranged meeting between the vendor and the vendee (complainant) of the agreement to sell dated 17.12.2021, meaning thereby he was a mediator

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between the parties to agreement to sell. Out of Rs.35 lakhs paid by the complainant to the accused, Rs.15 lakhs were transferred by co-accused Dharam Singh in the account of M/s Vishnu Trading Company run by brother of the petitioner. From the perusal of record, petitioner along with co-accused appears to have defrauded the complainant.

7. 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.

8. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.”

9. Reliance can be placed upon the Hon'ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and***

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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.

10. The allegations are serious in nature. 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.

11. 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 present case to recover the defrauded amount, know the involvement of other co-accused and their *modus operandi*. Petitioner is likely to abscond and misuse his liberty, therefore, does not deserve grant of anticipatory bail.

12. In view of the above, the petition is dismissed.

13. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

21.04.2023

R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No