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

CRM-M-36565-2022 (O&M)
Date of Decision: 25.01.2023

BRIJ MOHAN

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

Mr. Manish Verma, Advocate
for the complainant.

HARSH BUNGER, J.

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.280 dated 04.07.2021, registered under Sections 426, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860, at Police Division No.5, Ludhiana (Annexure P-1).

Brief facts of the case are that the FIR in question was registered on the statement of one Jaswinder Singh son of Sh. Darshan Singh resident of Kohara Road, Ward No.1, Sahnewal Kalan, Tehsil and District Ludhiana. It is stated in the complaint that the complainant purchased land measuring *08 kanals 07 marlas* situated at Village Jhandiali, Hadbast No.225, Tehsil Sahnewal, District Ludhiana, out of *Khata No.226/244*, as per *Jamabandi* for the year 2015-2016, *khasra No.7//18/2, 77//19/2, 77/22, 77//23/1, Kitte 4* (1/3 share out of land

measuring *25 Kanals 01 Marla*) from Brij Mohan son of Sh. Vipin Kumar resident of House No.212, Pakhowal Road, Lalto Kalan, Tehsil and District Ludhiana through agreement dated 06.05.2019. It is further stated that on 20.05.2020, the complainant got registered one sale deed of *4 kanals* of land bearing *Wasika No.2020-21/102/1/27* in the name of his partnership firm namely, M/s J&S Land Developers and Promoters and accordingly, the mutation was also sanctioned in the name of said firm. It is stated that the date of registration of the sale deed was then fixed for 14.12.2020. However, the complainant learnt that said Brij Mohan, in connivance with Rajan Kumar and witness Sharnjit Singh and Keshav had executed one fake and forged agreement in favour of Rajan Kumar with regard to the above-said property. It is alleged in the complaint that the said agreement was written on stamp papers bearing Nos.M 862374 MM – 862376-M-862377 and on the reverse side of the said stamp papers, it was shown that the same have been purchased from stamp vendor Tejinder Paul and there was a cutting in the Serial No., date, month and year of the purchase of stamp papers. It is further alleged in the complaint that on being suspicious, information under the Right to Information Act was sought; from which it was revealed that the above-said fake and forged agreement was prepared by tampering with the month/year of purchase of stamp papers in previous dates and also the serial number of stamp papers. It is alleged that no stamp paper was sold by Tejinder Paul, Stamp Vendor in the names of Brij Mohan or Rajan Kumar on 18.12.2018, as per the register of Stamp Vendor. It is also stated in the complaint that the aforesaid stamp paper were sold by Tejinder Paul, Stamp Vendor to Brij Mohan, vide serial No.3353 dated 18.06.2020 and the accused in connivance with each other, have mentioned digit (1) in front of Serial No.3353 and made the said serial number as

13353 and also converted the date from 18.06.2020 to 18.12.2018. It is next alleged that as against Serial No.13353, the stamp papers have been sold to M/s Bon Bread. It is further stated that the agreement has been prepared by all the accused under the pre-planned conspiracy in a previous date and Rajan Kumar etc. were trying to take illegal possession of the land on the basis of this fake and forged document and were also blackmailing the complainant by demanding Rs.50 lacs more, after getting stay on the basis of fake document.

On the basis of above-said allegations, the FIR in question, was registered against the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case and that he has executed two sale deeds dated 20.05.2020 and 29.12.2020, whereas, he has not received the entire sale consideration of Rs.1,10,00,000/-. Rather, the petitioner has not executed the agreement to sell dated 18.12.2018 and he has only authorized the co-accused Rajan Kumar to execute 'Power of Attorney' but those stamp papers have been misused. Learned counsel further submitted that upon filing of the written statement by the petitioner in the case filed by Rajan Kumar, he has withdrawn the Civil Suit. Learned counsel also submitted that a subsequent agreement to sell dated 16.03.2019 allegedly executed by Brij Mohan (petitioner) in favour of one Sukhdev Singh, is also a fake document as no such agreement has been executed by the petitioner. Learned counsel for the petitioner has further submitted that the complainant had entered into an agreement with the petitioner for exchanging the land for the remaining amount of Rs.50 lacs and entered into an agreement with the petitioner that he will give three shops bearing Nos.20, 21 and 22, situated at Civil Hospital Road, Sahnewal,

District Ludhiana. However, he has not given the same to the petitioner and got lodged the present FIR in order to wriggle out of the said agreement to sell by falsely implicating the petitioner. Learned counsel submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency. Accordingly, the prayer for anticipatory bail has been made by learned counsel for the petitioner.

Per contra, learned State counsel has opposed the prayer of bail to the petitioner on the ground of seriousness of offence by submitting that it is a case of clear forgery and hence, the custodial interrogation of the petitioner is required to know about the factual position. Accordingly, he prayed for dismissal of this petition.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

It is well settled that pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

From the perusal of paper book, it *prima facie* appears that the agreement to sell with an alleged date of 18.12.2018 has been prepared on the stamp paper issued later in time and that too by tampering with the serial number of the stamp paper by inserting digit (1) in front of Serial No.3353 and making it as 13353. Even the date is alleged to be changed from 18.06.2020 to 18.12.2018. It is also stated that some other stamp papers have been sold vide Serial No.13353 to M/s Bon Bread.

In my considered view, custodial interrogation of the petitioner is very much required and necessary in this case for complete and effective investigation, so as to ascertain the truth of fake documents and also to

unearth the racket of illegal activities and also the *modus operandi* of such activities alleged against the petitioner involving other persons. In case custodial interrogation is denied to the investigating agency, that would leave many loose ends, gaps and lacuna in the investigation, thus adversely affecting the case. In *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful information.

Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard. Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.280 dated 04.07.2021, registered under Sections 426, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860, at Police Division No.5, Ludhiana; is hereby dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending application/s, if any, shall also stand disposed of.

January 25, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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