

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

CRM-M- 38193 of 2023

Date of decision : August 07, 2023

Raju Mishra

..... Petitioner

Versus

State of Haryana

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :-Mr. Simranjeet Singh, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

1. Prayer in the present petition is for grant of pre-arrest bail in FIR No. 244 dated 02.06.2023 for offences punishable under Sections 120-B, 419, 420, 467, 468, 471 IPC, 1860 registered at Police Station Sirsa Sadar, District Sirsa.
2. It is the second petition filed by the petitioner. The first petition was ordered to be dismissed as withdrawn with following observations:

“After arguing for some time, learned counsel for the petitioner prays for withdrawal of the present petition with a prayer that petitioner be granted liberty to surrender before the trial court.

Ordered accordingly.

The writ petition is dismissed as withdrawn. The petitioner is granted liberty to surrender before the trial Court. This Court is quite sanguine of the fact that in case the petitioner surrenders before the trial court and files an application seeking admission on regular bail, the same will be adjudicated expeditiously in accordance with law, preferably within a period of three days.”

3. Reliance has been placed upon order passed in **CRM-M-35286-2023** whereby the co-accused Poonam Mishra @ Poonam Devi has been granted interim protection vide order dated 24.07.2023. A bare perusal of the order would reveal that she was granted indulgence only on account of her medical state being in advance stage of pregnancy. Thus, reliance placed upon the said order is misplaced.

4. Coming on to the merits of the case, it has been alleged in the FIR as under:-

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1. That applicants are residents of Village Shahpur Begu, Tehsil and District Sirsa and are peace loving and law abiding citizens.

2. That on 04.06.2021, the applicants had purchased area measuring 0 kanal 8 marla 3 sarsai comprised in Khewat No.122 Khata No.47 and Khewat No.2284 Khata No.3397 situated at Village Shahpur Begu, as per the jamabandi for the year 2017-18 vide Sale Deed No.1407 dated 14.06.2021 from the accused No.1 and mutation of above said area was also issued at the time of registration of document. Applicants are continuing owners in possession over the said land. Copy of sale deed is attached.

3. That on 28.04.2022, when the applicants obtained the jamabandi of above said area then applicants came to know that the mutation regarding above document has been cancelled and above accused collectively have got sanctioned a loan of Rs.18,34,000/- from Sarv Haryana Gramin Bank, Barnala Road Branch against the above said land, regarding which Rapat No.00050 dated 23.11.2021 is entered in the jamabandi. Thereafter the applicants got mutation then applicants came to know that for cancellation of above mutation, there are no signatures of Tehsildar Sahib or any other higher officer nor there is any rapat entered in the record regarding cancellation of above mutation.

4. That applicants inquired at their personal level then it came to knowledge that Patwari, after taking money from accused No.1 & 2, without any

reason entered regarding cancellation of mutation without the signature of any Tehsildar or higher officer and after scanning it, uploaded it online. Copy of mutation No.15357 is attached from which it is clearly revealing that there are no signatures of any Tehsildar or Assistant Registrar. 5. That above accused, in connivance with each other and by hatching a conspiracy, with an intention to cause illegal loss to the applicants and to get illegal gain, claimed themselves to be owner of above said land and have obtained the loan against above said land and have caused illegal loss to the applicants. As such, it is requested to you that case may be registered against above accused and strict legal action may be taken against them. We shall be thankful to you. Sirsa/06.09.2022

Sd/-) Seema Rani applicants 1. Seema Rani wife of Sunil Kumar 2Asha Rani wife of Sh.Raj Kumar residents of Village Shahpur Begu Tehsil and District Sirsa. Mobile No.77770-77979.

Conclusion: all the documents on record were perused thoroughly as Inquiry Officer and thereafter the fact came into light that Smt. Poonam Devi wife of Raju Mishra son of Ashok Kumar resident of Village Shahpur Begu, Tehsil and District Sirsa had got registered area measuring 242 sq. yard owned by them, in favour of Seema Rani wife of Sunil Kumar and Asha Rani wife of Sh. Raj Kumar sons of Birbal, residents of Village Shahpur Begu, Tehsil and District Sirsa vide document No.1407 dated 04.06.2021 and had also deposited the fees of mutation at the time of registration of document and thereafter Anil Kumar, the then Halqa Patwari Shahpur Begu entered mutation No.15357 dated 07.06.2021 which was (Muqabla) compared by Halqa Kanungo on 15.06.2021 and Mahender Singh, Assistant Collector (Ind Grade and Naib Tehsildar Sirsa cancelled the above mutation on 15.06.2021. But Anil Kumar Patwari, got scanned this mutation by adopting illegal procedure and on the scanned mutation there are not signatures of Naib Tehsildar Sirsa, which is against the rules, due to which there is no entry of cancelled mutation in the remarks column of the jamabandi, of which Smt. Poonam Devi wife of Sh.Raju Mishra seller got illegal benefit in the jamabandi. Taking illegal

benefit of this, Smt. Poonam Devi took a loan of Rs. 18,34,000/- from Sarv Haryana Gramin Bank, Barnala Road, Sirsa Branch in illegal manner, entry of which exists in Jamabandi vide Rapat No.00050 dated 23.11.2021. But mutation No.15357 has been shown as cancelled by Sub Registrar and AC 2nd Grade on 15.06.2021 which also bears the signatures of AC 2nd Grade whereas scanned mutation No.15357 uploaded on computer bears no signatures of Assistant Collector 2nd Grade nor date has been mentioned. This clears the connivance of the then Patwari Anil Kumar also. Anil Kumar Patwari and Smt. Poonam Devi did not join the inquiry even after issuance of notices. Smt. Poonam Devi's husband Raju Mishra appeared in the office on 09.05.2023 and orally stated that his wife Smt. Poonam Devi has gone to her parental home, which will return after about 6 months and Raju Mishra did not record his statement despite appearance, from which it is clear that he is also fully involved in the above said conspiracy. Notice was issued to Sarv Haryana Gramin Bank Barnala Road, Sirsa through Ran Singh Bank Manager, but neither he himself nor any person on behalf of bank joined the inquiry. Before giving loan to any person, the bank does full investigation regarding ownership, from which it is clear that Bank employee by performing his duties negligently has given loan of Rs. 18,34,000/- to Smt.Poonam Devi in illegal manner against the disputed land.”

5. Role of the petitioner has been culled out by the court below while dismissing his bail as under:-

“6.The sale deed of plot measuring 8 marlas 3 sarsai owned by Poonam Rani wife of present accused took place in favour of Seema Rani and Asha Rani. Mutation No.15357 was entered on 07.06.2021 but the said mutation was cancelled on 15.06.2021 by the Patwari himself. The sequence of the offence on the file shows that against this original sale deed a loan of Rs.18,34,000/- was taken on 23.23.11.2021 by accused Raju Mishra. Only then, the complainant was moved before the police. Then in this matter, the DRO also conducted

an enquiry who found the role of Poonam Rani, Raju Mishra, Patwari and Bank Manager. Straight way the beneficiary is Raju Mishra as per loan proceedings dated 23.11.2021. Raju Mishra is himself a witness on this sale deed. Now he is the same beneficiary in the bank loan against the same property. A direct involvement of this accused is on the file. So the custodial interrogation of the petitioner is required to unearth the truth and to go into the depth of the matter.

6. Keeping in view the allegations levelled against the petitioner this Court does not find it to be a fit case to exercise jurisdiction under Section 438 Cr.P.C.to grant pre-arrest bail.

7. The Apex Court in the case of **Pratibha Manchanda and another Vs. State of Haryana and another 2023 (3) RCR (Criminal) 511** while dealing with a somewhat similar allegations held as under:-

“16. It goes without saying that the alleged offences of forging documents for transferring ownership of land worth crores of rupees are grave in nature. Hence, while it is extremely important to protect the personal liberty of a person, it is equally incumbent upon us to analyze the seriousness of the offence and determine if there is a need for custodial interrogation.

*17. In **Siddharam Satlingappa Mhetre v. State of Maharashtra (2011) 1 SCC 694**, this Court carefully considered the principles established by the Constitution Bench in **Gurbaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565** case. After a thorough deliberation, this court arrived at the following conclusion:*

"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail: (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made; (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence; (iii) The possibility of the applicant to flee from justice; (iv)The possibility of the accused's likelihood to repeat similar or other offences; (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; (vi)Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people. xxx xxx xxx"

18. In *Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731*, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

19. The relief of Anticipatory Bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.

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25. Land scams in India have been a persistent issue, involving fraudulent practices and illegal activities related to land acquisition, ownership, and transactions. Scammers often create fake land titles, forge sale deeds, or manipulate land records to show false ownership or an encumbrance-free status. Organized criminal networks often plan and execute these intricate scams, exploiting vulnerable individuals and communities, and resorting to intimidation or threats to force them to vacate their properties. These land scams not only result in financial losses for individuals and investors but also disrupt development projects, erode public trust, and hinder socio-economic progress.

26. While we do not wish to comment further on this issue, we believe it is necessary to foil any trace of organized crime perpetrated by land mafia, through an unimpaired and unobstructed investigation. “

8. In the considered opinion of this Court not only the allegations levelled against the petitioner to non-suit him from grant of bail rather the conduct shown by the petitioner in misleading this Court by placing reliance upon order dated 24.07.2023 in CRM-M-35286-2023 whereby the co-accused Poonam Mishra @ Poonam Devi has been granted bail only on the ground of her medical state non-suits him.

9. Resultantly, the present petition is dismissed with costs of Rs.10,000/- to be deposited in the Advocates Welfare Fund of Bar Association, Punjab and Haryana, Chandigarh.

(PANKAJ JAIN)
JUDGE

August 07, 2023
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Whether speaking/reasoned	Yes
Whether Reportable :	No