

206(2)

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

CRM-M-45213-2022 (O&M)**Date of decision : 02.11.2023**

Surjit Sharma

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Inder Pal Singh, Advocate,
for the petitioner.

Mr. C.L. Pawar, Addl.A.G., Punjab,
assisted by ASI Barinder Kumar.

Mr. Rajesh Bhateja, Advocate,
for the complainant.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.0185 dated 28.08.2022, under Sections 420, 120-B, 506 of the Indian Penal Code, 1860 (for short, '*the IPC*'), registered at Police Station City South, District Moga.

2. Allegations are that the petitioner along with co-accused cheated the complainant while entering into an agreement to sell dated 23.12.2021 qua the shop in question, despite the fact that they had already executed an agreement to sell on 18.10.2021 with some other person(s).

3. The Coordinate Bench, on 20.04.2023, granted interim bail to petitioner and relevant part of the same is recapitulated as under:-

“Report of the Mediator has been recieved. As per the same, the parties could not arrive at an amicable settlement.

Petitioners are directed to join the investigation on or before 26.04.2023. In the event of arrest of the petitioners, they shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance enshrined under Section 438(2) Cr.P.C.

However, it is clarified that if the petitioners do not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated.

Adjourned to 18.05.2023.

A photocopy of this order be placed on the file of connected case.”

4. Contends that in terms of the aforesaid order, petitioner has already joined investigation and his custodial interrogation is not required.

5. Above factual position is duly acknowledged by learned State Counsel, on instructions from the police officer present in Court and further stated that custodial interrogation of the petitioner is not required at this stage.

6. Although, learned counsel for the complainant vehemently opposed the prayer of petitioner, but in view of fact that State is not seeking custodial interrogation; therefore, objection raised by learned counsel for the complainant is rejected.

7. In view of above, interim order dated 20.04.2023, is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
8. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
9. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
10. Disposed off accordingly.

02.11.2023
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(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/ reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether reportable</i>	:	<i>Yes</i>	/	<i>No</i>