

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

CRM-M-48184-2022
Date of Decision: 01.08.2023

Sachin Narula

...Petitioner

Vs.

State of Haryana and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Sartej Singh Narula, Advocate
 for the petitioner.

Ms. Sheenu Sura, DAG, Punjab.

Mr. Ankit Joshi, Advocate
for the complainant.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 438 of Cr. PC for grant of anticipatory bail in case FIR No.639 dated 08.09.2022, under Sections 120-B, 420, 467, 468 and 471 of IPC registered at Police Station Kundli, District Sonipat (Annexure P-1).

2. Learned counsel for the petitioner contends that the act of registration of the FIR in the present case is malicious and attended with mala-fide intention so as to arm twist the petitioner, in order to extort money from him and his brother. As per the learned counsel, in the year 2012, Vivek Narula and Rohini Narula (complainant), brother and bhabhi (sister-in-law) of the petitioner respectively had purchased an Apartment No. F2-1004 in TDI City, Kundli, each of them, having 50% share vide the agreement Annexure-P2.

Vivek Narula and Rohini Narula had decided to sell the said apartment and the petitioner was also looking to buy some property. Consequently, Vivek Narula and Rohini Narula, complainant had agreed to transfer the plot in possession of the petitioner for a total sale consideration of Rs.33,50,000/- and also cleared all the pending dues on account of Annual Maintenance Charges/Club Charges/Resident Welfare Charges etc. and the same were paid by them. Apart from that, Vivek Narula and Rohini Narula also paid transfer charges to the tune of Rs.23,600/- by way of cheque Annexure P-3. After that, an endorsement Annexure P-4 was also made on the Apartment Buyer's Agreement regarding the apartment transfer to the petitioner. While referring to the bank statement Annexure P-5, learned counsel further contends that on 11.08.2021, the present petitioner paid a total sale consideration of Rs. 33,50, 000/- by way of two RTGS of Rs.16,75,000/- each in the account of Vivek Narula and Rohini Narula (complainant) as per their entitlement and ownership i.e 50% share and the possession of the apartment was handed over to the petitioner. Thus, it was evident that the complainant had also received half of the sale consideration i.e Rs.16,75,000/- by way of a bank transfer. He further contends that relationship between Vivek Narula and the complainant deteriorated, leading to filing of a litigation due to matrimonial discord between them. Even the complainant filed a petition under Section 125 Cr. PC against Vivek Narula in the Family Court, Karkardooma Courts, Delhi on 05.05.2022. In order to pressurize her husband, Rohini Narula (complainant) coined a false version that the apartment was being fraudulently sold to the present petitioner and she had been deceived and deprived of her legitimate share of 50% by forging her signatures. Learned counsel further contends that even on preliminary enquiry, the police found no

substance in the matter and the matter was ordered to be closed. However, she got the FIR registered by moving to the Court of Learned Magistrate, who invoked the provisions of Section 156 (3) Cr.P.C and ordered the registration of the FIR. He further contends that the petitioner is only a bona fide purchaser and had paid the sale consideration of the apartment to the complainant and her husband, Vivek Narula and has already handed over all the documentary evidence in this regard to the local police. Thus, the custody of the petitioner will serve no meaningful purpose.

3. On the other hand, learned State counsel submits that in pursuance of the interim order dated 27.10.2022, the petitioner had already joined the investigation and is no longer required for the purpose of investigation. Learned State counsel further contends that the documents in the present case have been taken into possession by the police and the matter is being investigated.

4. Learned counsel for the complainant has vehemently opposed the prayer made by the present petitioner on the ground that serious allegations have been levelled against the present petitioner and he has forged the documents to usurp the property of the present complainant. Keeping in view the gravity of the matter, the petitioner is not entitled for the relief of anticipatory bail under Section 438 Cr.PC.

5. I have heard learned counsel for the parties and with their able assistance; I have perused the record.

6. It is not in dispute that the petitioner had joined the investigation in compliance of the interim order dated 27.10.2022 passed by this Court and is no longer required for the purpose of investigation. Apart from that, it is also borne out from the record that the documentary evidence in the present case has

already been taken into possession by the police.

7. Thus, without commenting on the merits of the case, this Court is of the considered opinion that in exercise of jurisdiction of this Court under Section 438 Cr. PC would be in strict adherence to the settled principles of law and the petitioner is held entitled for said concession.

8. In view of the above discussion, the present petition is allowed and the interim order dated 27.10.2022 is made absolute. The petitioner shall continue to join the investigation, as and when called by the Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438 (2) Cr. PC.

01.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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