

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-58842 of 2023
Date of Decision: 22.11.2023

Kewal Singh ...Petitioner
Vs.
State of Punjab ...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sanjiv Gupta, Advocate for the petitioner.
Mr. Amish Sharma, AAG, Punjab
Mr. Gurjinder Singh Thind, Advocate, for the
complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 438 of the Cr.P.C. with a prayer to grant pre-arrest bail to him in case FIR No.0119 dated 16.10.2023 registered under Sections 406, 420 and 120-B IPC at Police Station Anaj Mandi, District Patiala.
2. The FIR in the present case was got registered by Sukhwinder Singh by alleging that Nahar Singh and Karanveer Singh had agreed to sell their land measuring 24 bighas and executed an agreement dated 14.09.2021 and received a sum of Rs. 15 lacs as earnest money. The last date for execution and registration of the sale deed was fixed on 30.10.2023. Later on, it has been alleged that

Nahar Singh and Karanveer Singh illegally struck a deal of the land in question with Kulwinder Singh and had cheated the present complainant. It has been alleged that the present petitioner had facilitated the deal between the complainant, Nahar Singh and Karanveer Singh. Learned counsel for the petitioner contends that the petitioner is only a witness to the agreement to sell, which was executed by Nahar Singh and Karanveer Singh in favour of the present complainant and had no concern with the alleged transaction between the parties. In fact, he had identified the parties to the agreement correctly.

3. Learned counsel further contends that so far as the deal between Nahar Singh and Karanveer Singh on the one side and Kulwinder Singh on the other side concerned, the same has already been cancelled and Kulwinder Singh has sworn an affidavit (Annexure P-2) in this regard. Learned counsel for the petitioner further contends that a civil dispute has been given the colour of criminal offence and the remedy with the complainant was to file a suit before the competent Civil Court and the present FIR is an instrument of misuse of process of law.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant Mr. Gurjinder Singh Thind, Advocate, for the complainant have vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that there

are serious and specific allegations against the present petitioner and he is the principal accused. Learned State counsel on instructions from ASI Jatinder Kumar submits that two more FIRs, i.e., FIR No. 230 dated 02.10.2021 under Sections 365, 323, 120-B and 379-B IPC and FIR No. 28 dated 29.01.2021 under Sections 447, 427 and 511 IPC have already been registered against the present petitioner. They further contend that in fact, the petitioner was the mastermind in the present case and the complainant, who is a poor villager has been cheated by him. Learned counsel further submit that the amount involved in the agreement to sell is yet to be recovered from the present petitioner and he does not deserve the concession of anticipatory bail by this Court.

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

6. It is apparent from the record that vide agreement dated 14.09.2021, Karanveer Singh and Nahar Singh had agreed to sell their land in favour of the present complainant and a sum of Rs. 15 lacs was received as earnest money. The petitioner had signed the agreement only as a witness and there is no allegation that any of the parties to the present agreement was fictitious person. Apart from that, the present case is based on documentary evidence, and the agreement to sell has already been taken into possession by the police. Apart from that, the agreement to sell in favour of Kulwinder Singh had

already been cancelled and Kulwinder Singh had also sworn an affidavit (Annexure P-2) in this regard. Still further, the pendency of all other criminal cases is no ground to deny the concession of anticipatory bail in the present case as the petitioner has been able to make out a case for grant of anticipatory bail in the peculiar facts and circumstances of the present case. The Hon'ble Supreme Court in the matter of *Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831* has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of *Maulana Mohd. Amir Rashadi Vs. State of U.P., and another 2012(1) R.C.R. (Criminal) 586*.

7. Without commenting any further on the merits of the case, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

22.11.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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