

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

214

2024:PHHC:024563

CRM-M-3124-2024

Date of decision: February 21st, 2024

Manoj Kumar Saini

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anurag Srivastava
and Mr. Ashish K. Dabas, Advocates
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General, Haryana.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in case FIR No.356 dated 23.11.2023 under Sections 420, 406, 34 of the IPC registered at Police Station Rajender Park, Gurugram.

2. The FIR in question, which has been annexed as Annexure P-1, was registered by the complainant. Before proceeding further, the relevant part of the FIR is reproduced as under:-

“To, the DCP Gurugram, Haryana Subject: Complaint against Aarti Mishra Wife Shri Manoj Mishra (Mob. No. 9205020201), Manoj Mishra (Mob. 9625463747), Manoj Kumar Saini S/o Shri C.S. Saini resident of C-4 G- 137A, Janak Puri New Delhi 110058 (Mob. No. 9873488257), Nand Lalsu S/o Shri Ramdev resident of 2048/31 Ashok Garden, Gurugram-122006 (Mob. No. 9999211298) and Joginder Saini S/o Shyam Lal Saini resident of 322-P, Sector 12 A, Gurugram-122022 (9871767119) and other unknown persons for cheating, forgery, breach of trust and encroachment. Sir, my name is Baby wife of Sh. Vijay Kumar, age 55 year, am

permanent resident of House 2793/1, Basti Julahan, Idgah Road, Sadar Bazar, New Delhi- 110006. I am an illiterate and widow lady and working as labourer in a private company. Sir, after the death of my husband, I worked in a private office and I managed my household with great difficulty and nourished myself and my child. During my lifetime, I and my son earned some money and started looking for a house for our resident, during which, my maternal uncle Nand Lal introduced me to a person namely Joginder Saini and Manoj Saini and full assurance that Manoj and Joginder are very honest and Will arrange a for house you on cheap rates. I believed on the said assurance of Nand Lal then I and my son started looking for houses in Gurugram through Manoj Saini. At the time of meeting with Manoj Saini, I had openly financial condition to Manoj informed about my Saini and Joginder Saini, who are the property dealers, so that no objection of any kind arises from my side at belated stage. Manoj Saini and Joginder Saini had assured me that they will arrange a good and cheap house as per my financial condition and till the time of getting loan, they will take money from me in small installments and will transfer the house in my name. I believed the words of Manoj and Joginder and started looking for houses according to them. In the meantime, Manoj Saini had shown me a floor whose address is Opposite Punjab National Bank, CR Group, Block No. 53 F. Near Ekta Wali Gali, Flat No. 301, 3rd Floor, Rajendra Park, Gurugram, Haryana- 122001, whereupon I told Manoj Saini to talk to the owner of said floor, then Joginder Saini told me that you do not need to meet anyone because the Will of this floor is in the name of Manoj Saini and on the basis of said Will, he can do any kind of

legal work, selling and renting out the floor. I got trusted on the said version of Joginder Saini and have not approached the owner of said floor. Thereafter I shown my desire to buy the above said floor and asked them for some negotiations. Therefore Manoj Saini said that you bring Nand Lal with you because he is well known to us and we will explain everything to him and you will not be able to read the property papers and Nand Lal will tell you everything." I trusted on the said words of Manoj Saini and Joginder Saini and I told about all the things to my maternal uncle Nand Lal and he also started praising Manoj and Joginder and assured me that Manoj Saini and Joginder will arrange good house without any greed or fraud and I will check the papers. On 01.03.2022, I, my son and maternal uncle Nand Lal went to the house of Manoj Saini, where Joginder was already present. Nand Lal gave a signal to Manoj and told him that "show Will of Aarti will to Baby, today Baby come to buy your floor" Therefore, Joginder said that Baby is an illiterate and simple woman. You look it and tell baby whether the papers are genuine or not. Manoj took out a Will which was a photocopy and showed it to my uncle Nand Lal to see it. Nand Lal has checked the papers and immediately said that Baby, papers are correct, you enter into agreement. I given signal towards my son and said him to check the papers, therefore Nand Lal gave him the papers and as soon as my son started studying, Nand Lal said now have you not trust on your maternal uncle that he will cheat you? Since my maternal uncle is elder, therefore I got agreed to purchase the sid floor and the deal for the purchase of said floor is finalized against the amount of Rs.14,50,000/-. Sir, my son told Nand Lal that we will prepare papers

for this then Joginder Saini said that stamp papers remains in the office, so we execute the document on said papers. It has been written on stamp paper worth Rs.50 that I will purchase said floor against the amount of Rs.14,50,000/-and in lieu of which, I had given a cheque No.469462 dated 01.03.2022 of Rs.50,000/- and cheque No.469463 dated 04.03.2022 of Rs.4,50,000/- and agreed to given balane amount of Rs.9,50,00/- later on. At the time of doing said deal, I and my son had demanded photocopies of the property papers, whereupon Joginder and Nand Lal assured that they call the property documents from the original owner and will provide the same to you, so that you can get a loan and make balance payment. On 07.03.2022, an agreement was made between Manoj Saini and me, which was executed at Gurugram, in which the payment of money was fixed as per the terms and conditions. The agreement to sell is attached with this complaint. On 07.03.2022, as per the conditions of agreement to sell, I had paid the amount total Rs.9.00 lacs to Manoj Saini as per the terms of the Agreement to Sell. Manoj Saini took the above cheques in writing and signed it and got them encashed and the balance amount was also given to Manoj in the month of March 2023 on the asking of Joginder and maternal uncle Nand Lal. I and my son kept on demanding the papers of house from these three persons and they always lingered on the matter under one pretext or the other. I used to tell him, "I have to take loan from the bank and the installment that I am giving to Manoj Saini, will give to the bank and will get the house transfer in my name." Therefore Nand Lal and Joginder Saini told me that trust on us and consider Manoj Saini as a bank and keep on giving installments and after

Greh-Parvesh, we will give house to you. On hearing their said words, I became calm. After a few days of the agreement, Nand Lal gave me the keys and told me to make preparation for Greh- Parvesh. I and my son have arranged the function of Greh-Parvesh on 15.04.2022 with our family and some relatives and in the evening, I kept some of our material in the above said floor and locked its all doors. From that day, I and my son got assured that we were legally in possession of the floor, our material is lying in the house and we have locked it with our own locks. On the basis of assurance, I kept on giving Rs.13,360/- to Manoj Saini till 17.04.2023. During said period I and my son kept on going for our respective works because we both are labourers. In the month of April, 2023, I and my son went to see our recently purchased and occupied floor and as soon as we reached there, we found that the locks of our floor were broken and someone was living inside the house. Therefore, I and my son told them that we are the owners of this floor then they shouted on us and said that ask from Manoj Saini and Joginder that who is the owner. We made phone calls to Manoj and Joginder, but they did not attended our phone calls and also not responded in any way. From that day, I and my son are mentally disturbed and feeling us as cheated and on arrival at our house, we informed my maternal uncle Nand Lal about all the above said incident, whereupon Nand Lal told us that we talk to Manoj ad Jogiinder comfortably. Both of them are muscleman of the area and can do anything. My son insisted on filing a complaint to the police but Nand Lal scolded him and said that Manoj Saini and Joginder have approach up to the police and other officers of the Tehsil and politicians, you will not be able to do any

harm to them and they can go to any extent. On hearing said words of maternal uncle, we became suspicious regarding collusion of our material uncle with them. I folded my hands and told Nand Lal that you know them well and you are the one who introduced me to them. You come with us and get the house or our back. Nandlal agreed to this but he kept on lingering the matter under one pretext or the other till one monthh. IN the mean time, I kept on making phone calls to Manoj Saini but he stopped to attend my phone calls. I started feeling helpless and falling ill and my son started taking care of me. After a few days, both of us went to the house of Nand Lala and after taking him with us, we met with Manoj Saind and when Manoj Saini saw us, he started abusing me and my sons which cannot be explained here. But I can tell you and he said us that you get out from here, otherwise I will implicate your son in a case and he will remain in jail and cannot come out from jail. On hearing it, I got scared and started crying and requesting Manoj and Joginder to return the house or money, therefore Joginder said that now neither the house nor the money will be given, you may do anything which you can. I told Joginder that you are a witness to the terms and conditions in the agreement as till date I have fulfilled the terms and conditions and have paid the money with in time, then Joginder laughed loudly and said that Nandlal had brought you here to trap and loot you and he has his share to him. On hearing it, I felt encircling and fell down on the ground and after some time, on gaining consciousness, I asked my maternal uncle Nand Lal that why he did this with me, whereupon Nand Lal said that I will manage to return some money but you will not get this house. Nand Lal started telling

us the stories of fraud committed by Manoj and Joginder. We came from there and went to Police Station Rajendra Park to give written complaint, where a constable took our complaint and made phone call to Manoj Saini and Joginder and thereafter he returned our complaint to us and told us to go from there. Sir, all the above mentioned persons have committed fraud with me and looted my hard- earned money with cheating, telling lie and preparing fake papers. Neither the house is given nor our amount is returned, due to which I suffered a huge loss and the accused persons got a wrongful gain. Sir, on the basis of above said facts, you are requested to take an immediate action against them and punished them.”

3. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the instant case; a purely civil dispute is given a criminal complexion. It has been submitted that the gist of entire allegations levelled against the petitioner was that despite the petitioner having entered into an agreement to sell with the complainant, possession of the property in question had been transferred to someone else. Learned counsel submits that a bare perusal of the agreement in question (Annexure P-4) reveals that the petitioner was duly authorized by the General Power of Attorney, executed in his favour by the original owner one Aarti Mishra, authorizing him to enter into an agreement to sell qua the property in question. The reason it had been transferred to another person was that the complainant herself had failed to honour the agreement to sell by not paying the balance amount of ₹9.5 lakh.

He has further submitted that in fact the FIR was just a pressure tactic

being employed by the complainant, who was trying to evade paying the balance consideration of ₹9.5 lakh and hence, had cooked up a fabricated version against the petitioner. He has further submitted that the entire case of the prosecution rests on documentary evidence and nothing is required to be recovered from the petitioner, for which he deserves to be extended the concession of anticipatory bail.

4. *Per contra*, learned State counsel, on instructions, has vehemently opposed the prayer and submissions made by the counsel opposite. She has submitted that the petitioner had duped an illiterate poor widow of her life savings. Despite the complainant having been given the possession of the floor of the house in question, and admittedly paying the monthly instalments in the sum of ₹13,630/- as payment of ₹9.5 lakh, possession of the floor in question was taken away from her by breaking open the lock of her house. She submits that the custodial interrogation of the petitioner would be required to ascertain the authenticity of the General Power of Attorney, which is being relied upon by the petitioner and furthermore, more so since the property in question is in the NCR, where unscrupulous property dealers have been indulging in such like crimes and duping innocent poor people of their hard earned money.

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

6. *Prima facie*, there are indeed serious allegations against the petitioner of having cheated the complainant, who is an illiterate poor widow, of her hard earned life savings.

7. Thus, in view of the allegations levelled, this Court is not inclined to extend the extraordinary concession of anticipatory bail to

the petitioner.

8. The instant petition stands dismissed.
9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

February 21st, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No