

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

207

2024:PHHC:021136
CRM-M-4171-2022 (O&M)
Date of decision: February 12, 2024

OM PRAKASH

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Dr. Anmol Rattan Sidhu, Senior Advocate
with Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Rahul Mohan, Senior Deputy Advocate General, Haryana.

Mr. Amit Jaswal, Advocate
for respondent No.2.

Mr. Subhash Aggarwal, Advocate
for respondents No.3 and 4.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition is the second petition filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in case FIR No.188 dated 09.06.2021 (Annexure P-1) under Sections 420 and 120-B of the Indian Penal Code, 1860 (Sections 467, 468 and 471 of the IPC added later on), registered at Police Station Sector 9-A, District Gurugram.
2. Learned Senior counsel for the petitioner has reiterated the submissions made on the previous date of hearing and has asserted that the petitioner has been falsely implicated in the instant case for committing a fraud pertaining to an 'Agreement to Sell' of a plot of land in Gurugram. Learned counsel has argued that the allegations levelled in the FIR do not even remotely attract the mischief of offences alleged therein and the dispute, if any between

the parties, is purely of a civil nature which has been twisted to give it a criminal colour. While referring to the allegations levelled in the FIR in question, which has been annexed as Annexure P-1, learned Senior counsel for the petitioner has also drawn the attention of this Court to Annexure P-4 to assert that there was ample evidence on record to show that the plot in question had been originally allotted to one Khauti Lal by HUDA *qua* which a possession letter had also been issued in the year 2002. Subsequently, an 'Agreement to Sell' was entered into between the petitioner and said Khauti Lal, however, after Khauti Lal failed to execute the sale deed, the petitioner filed a Suit for Specific Performance, which had been since decreed in his favour. In support, learned counsel has drawn the attention of this Court to Annexure P-5.

3. Furthermore, learned Senior counsel for the petitioner has asserted that there was no intent to cheat the complainant as he had also applied for re-issuance of the allotment letter pertaining to the plot in question from HUDA. He has maintained that the 'Agreement to Sell' was entered into between the parties only after full disclosure of the status of the plot to the complainant. Learned Senior counsel has still further submitted that since the petitioner, in compliance of the order dated 31.07.2023 passed by a Coordinate Bench of this Court, had joined investigation and cooperated with the investigating agency, the interim bail granted to him be made absolute as there would be no need for his custodial interrogation, coupled with the fact that the entire case of the prosecution rests on documentary evidence.

4. *Per contra*, learned State counsel, assisted by learned counsel for HUDA and learned counsel for the complainant-respondents, has vehemently opposed the prayer and submissions made by the learned Senior counsel for the

petitioner. It has been submitted by the learned State counsel, on instructions, that no doubt the petitioner had indeed joined investigation but despite being summoned repeatedly, he had been completely evasive and had not been extending cooperation; during investigation, it had come to light that the plot in question had never been allotted by HUDA to anyone; the petitioner had prepared a fake allotment letter in the name of one Khauti Lal, whose existence had not been proved till date, and in fact, he seemingly was a non-existent person. It has been still further submitted that the petitioner had thus fraudulently entered into an 'Agreement to Sell' with the complainant despite being fully aware that neither he nor said Khauti Lal had any title over the plot in question and duped the complainant of lakhs of money.

5. Learned State counsel has further contended that besides this, many more glaring inconsistencies had come to the fore in the version put forth by the petitioner as he had during his interrogation, submitted that said Khauti Lal was his tenant, however, during his investigation, a Special Power of Attorney executed by said Khauti Lal mentioned the petitioner as being his brother. It has still further been submitted that even the witness to the said Power of Attorney was found to be fake. Besides this, it has also been submitted that an *ex parte* decree in favour of the petitioner in the Suit for Specific Performance clearly hinted towards the involvement of the petitioner in such like fraudulent activities.

6. A vehement prayer has thus been made by the learned State counsel, assisted by the learned counsel for HUDA and the complainant, for dismissal of the instant petition as the custodial interrogation of the petitioner would be necessary in the facts and circumstances of the case so as to unearth

the entire chain of fraud, especially given the prevalence of such crimes in the NCR of Delhi.

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

8. *Prima facie*, serious allegations against the petitioner of having played a huge fraud and cheated the complainants to the tune of lakhs of rupees by entering into an 'Agreement to Sell' of a plot of land over which he had no title. Furthermore, there are also allegations against the petitioner of having fraudulently obtained a sale deed executed in his name from the Civil Court.

9. In the facts and circumstances as enumerated hereinabove, this Court concurs with the prayer made by the learned counsel for the State and the respondents that the custodial interrogation of the petitioner would definitely be required in order to uncover the entire *modus operandi* of the accused-petitioner, moreso since the property in question is in Gurugram, wherein such like crimes have become rampant.

10. The instant petition stands dismissed.

11. 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 12, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No