



CRM-M-24605-2024

-1-

(212)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-24605-2024
Date of Decision:21.04.2024

AMIT KUMAR

... Petitioner

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Munish Behl, Advocate
for the petitioner.

Mr. Parveen Aggarwal, DAG, Haryana.

Mr. Sherry K. Singla, Advocate
for respondent No.2-complainant.

JASJIT SINGH BEDI, J.

The prayer in this 2nd petition under Section 438 Cr.P.C. 1973 is for the grant of anticipatory bail in case bearing FIR No.95 dated 29.01.2020 (Annexure P-1) registered under Sections 120-B, 420, 467, 468, 471 IPC, 1860 (Sections 506 IPC added later on) at Police Station Mujesar, District Faridabad.

2. The present FIR came to be registered at the instance of Sunita wife of Brij Mohan and the same reads as under:-

*To The Worthy Commissioner of Police, Sector 21-C, Faridabad.
Subject: Complaint against Vinod Vidhuri (Mobile No. 96439-18131), Amit Baisla (Mobile No.99582- 68905, 83830-41831), Satparkash (Mobile No. 79828- 03730), for selling plot by committing cheating. Sir, it is submitted that I, Sunita wife of Sh.*



Brij Mohan, am resident of Village Likhi, Tehsil Hodal, District Palwal. That I, from the above four accused, purchased Plot No. 157 and 158, measuring 100 square yards, situated in Village Gochhi (Sanjay Colony), Tehsil Ballabgarh, District Palwal, Faridabad, i.e. land comprised in Khasra Mustill No.43, Killa No. 4/1 4/2 4/6,4/8, 4/9 4/10 4/11, 4/12 4/13, 4/14 4/15 4/16, 4/22, 4/23 4/24 4/26 4/27, 4/28 4/30, 4/31, Kite 20, area measuring 5 Kanals 6 Marlas, to the extent of 100/3176 share, i.e. area measuring 100 square yards, dimensions 20 feet x 45 feet, for an amount of Rs. 16,00,000/-. Out of which, Rs. 11,00,000/- were paid in cash and Rs. 5,00,000/- were paid through cheque issued by Sarv Haryana Gurgaon Gramin Bank, and the same was in the name of the Sh. Brij Mohan; whereas, the above cheque now also, is in possession of the above accused persons. Deed number of the same, is 56 dated 04.04.2018. When we went to construct house on the said plot, then 4-5 persons came there and started quarrelling with us and they started saying that the plot belongs to them. When we showed the registry of the plot, then they lodged complaint against us in Police Station. Thereafter, we came to know that cheating has been committed with us, and the earlier registry in the name of fake person Tej Bahadur has been prepared fraudulently. The said registry was got registered by Amit Baisla, Vinod Vidhuri (Dealer), Satparkash son of Dharmveer Village Tigaon, Sub Tehsil Tigaon, Faridabad, in connivance with each other, in the name of Satparkash, by standing some fake person. Deed Number thereof is 5141 dated 19.07.2012. When I inquired from these four persons with regard to the plot and with regard to commission of cheating with us, and asked them for returning the money, then they started putting off the matter and stated that they will return the money in some time. But despite demanding the money repeatedly, they stopped picking our phone calls and kept us making their rounds, for about one year, on the pretext of giving of money. When I being



CRM-M-24605-2024

-3-

fed up, went to their office with my son, then Amit Baisla, Vinod Vidhuri, Satparkash, all three of them, were in office and when money was demanded from them, then they showed us weapons and stated "forget about your money, and if you visited here again, then you and your family will be killed and it will not be good for you", and they made us run away from there by giving pushes. Therefore, it is requested to you to initiate strict and legal action against Dealer Vinod Vidhuri, Amit Baisla and Satparkash and money of my poor person may kindly be got recovered and strict action may kindly be taken against the above accused persons, so that they could not commit cheating, after hatching conspiracy, with some other poor persons. We want to get initiated action, qua the cheating committed with us and with regard to the executing registry by standing fake person. The same will be thankful to you. Thanking you, Dated 26.04.2019, Police Post Sanjay Colony, Sector- 23. I have submitted complaint on behalf of my mother. Applicant: Sd/- Sunita wife of Sh. Brij Mohan.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The dispute in the present case pertains to a plot measuring 100 Sq. ft. The said plot was in the ownership of one Tej Bahadur son of Som Nath by virtue of sale deed dated 10.04.1980. The said Tej Bahadur had sold the plot to one Satparkash vide Sale Deed dated 19.07.2012. Satparkash had further sold the plot in question to complainant-Sunita wife of Brij Mohan by virtue of a registered Sale Deed dated 04.04.2018. The petitioner had no connection with any of the transactions. A compromise had been arrived at between the complainant and Satparkash who had been granted the concession of anticipatory bail. As the petitioner was not a beneficiary in any manner, the case was of a civil nature



CRM-M-24605-2024

-4-

and the petitioner was ready and willing to join investigation, he was entitled to the concession of anticipatory bail.

4. On the other hand, the learned State counsel along with the counsel for the complainant while referring to the reply dated 01.07.2024 contends that the petitioner was a property dealer and he along with his co-accused had sold the plot to the complainant on the basis of a forged sale deed. The petitioner and his co-accused had hatched a conspiracy to transfer the plot in the name of co-accused Satparkash without informing the original owner Tej Bahadur son of Som Nath. Thus, the accused had cheated the complainant for an amount of Rs.16 lakhs. As the offence was *prima facie* established and the investigation was to be taken to its logical conclusion the custodial interrogation of the petitioner was certainly.

5. I have heard the learned counsel for both the parties at length.

6. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.



Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial***



CRM-M-24605-2024

-6-

interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

7. In the instant case, there are allegations of impersonation of the real owner of the land, execution of a forged and fabricated sale deed and agreement to sell by a fictitious owner of the property and receiving of Rs.16 lakhs on the basis of forged documents. There is absolutely nothing to suggest that a compromise was arrived at between the complainant on the one hand and the petitioner on the other. The fact of there being no compromise between the complainant and the petitioner has been mentioned clearly in para 9 of the impugned order dated 10.04.2024 (Annexure P-5). As the offence stands *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly necessary.

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

21.04.2024

JITESH

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