

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28566-2024
Reserved on: 05.08.2024
Pronounced on: 30.08.2024

Gurdeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Piyush Setia, Advocate
for the petitioner.

Mr. Nitish Sharma, DAG, Punjab.

Mr. A.K.Khunger, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0023	30.04.2024	Sadar Abohar, District Fazilka	406/420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 4 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“4 That during the investigation conducted so far, the incriminating evidence has come on file against the petitioner-accused. The facts of the investigation are as under:-

(i). The complainant Daljit Singh moved an application (No. 1004- SPL-PC dated 14.08.2023) to the S.S.P., Fazilka, leveling allegations of cheating and misappropriation of the amount against the accused, requested for taking legal action. During the enquiry conducted by the D.S.P.(Inv.), Fazilka, the allegations as contained in the said application were found to be true and the enquiry report was approved by the S.S.P., Fazilka, and accordingly, the FIR in question was registered against the petitioner-accused.

(ii). The petitioner-accused agreed to sell his land measuring 7 acres 4 kanals situated in the area of Village Malook Pur, Tehsil Abohar, to the

complainant @ Rs.16.25 lakhs per acre regarding which an agreement was reduced into writing on 11.03.2023. As per the agreement dated 11.03.2023, the petitioner-accused received an earnest money of Rs.22.00 lakhs from the complainant, as per detail given below:-

- (a) Rs. 10.00 lakhs through cheque No. 263770 of PNB Malout*
- (b) Rs. 10.00 lakhs through cheque No.000062 of HDFC Branch Malout.*
- (c) Rs.2.00 lakhs in cash*

The date of execution and registration of the sale deed, was fixed as 05.06.2023. The complainant paid additional earnest money of Rs.20.00 lakhs to the petitioner-accused on 21.03.2023, as per detail given below, regarding which a writing was made at the backside of aforesaid agreement to sell.

- (a) Rs.15.00 lakhs through cheque No.000024 of HDFC Bank, Branch Malout*
- (b) Rs.5.00 lakhs through cheque No.092002 of AXIS Bank Branch Malout*

In this way, the petitioner-received a total amount of Rs.42.00 lakhs from the complainant as earnest money.

(iii). On the date fixed for execution and registration of sale deed, the complainant found that there is a loan on the land in question, so the date of execution and registration of sale deed was extended and the fresh date was fixed 10.07.2023 The petitioner-accused did not execute and get registered the sale deed in respect of the land in question, in favour of the complainant on the date fixed ie. 10.07.2023.

(iv) Inspite of repeated requests, the accused did not execute the sale deed in favour of the complainant in respect of the land agreed to be sold by the accused to the complainant

(v). The accused neither executed the sale deed of the land in question in favour of the complainant nor returned the amount to the complainant. The accused cheated with the complainant with Rs.42.00 lakhs and misappropriated the earnest money paid by the complainant to the accused. The accused was having dishonest intention to cheat and defraud the complainant from the beginning and he cheated with the complainant by not executing the sale deed and by not returning the amount to the complainant.

4 Role of the petitioner

The petitioner-accused agreed to sell of the land in question in favour of the complainant and received Rs.42.00 lakhs from the complainant as earnest money. The petitioner neither executed the sale deed of the land in question in favour of the complainant nor returned the amount. The petitioner who is only accused in the FIR in question, cheated the complainant with Rs. 42.00 lakhs.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the status report.

6. The complainant also opposes the bail and has referred to para 3 to 7 of the reply, which reads as follows:

“3 to 7. That the contents of para No. 3 to 7 of the petition are totally wrong and hence denied. It is respectfully submitted that the petitioner agreed to sell his land and a sum of Rs. 42 lakhs were paid on account of earnest money and out of the said amount of Rs. 42 lakhs, Rs. 40 lakhs were paid through cheques which were duly credited in the account of the petitioner and even on the stipulated date for execution of the sale deed, the loan amount which was outstanding against the land in question was not even paid by the petitioner and further in order to cheat the complainant, the petitioner further got prepared agreement to sell in favour of one Sai Rafel Singh fully detailed in the preliminary objections. Thus, in this way, intention of the petitioner to cheat the complainant was from the very beginning.”

7. The petitioner’s stand in the bail petition is unsatisfactory and appears to be a bundle of lies.

8. However, it would be appropriate to state that there is a reference to a Bank loan in the agreement, which would indicate the complainant’s awareness of the loan.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms.

13. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27

of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.