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

**CRM-M-30119-2023 (O&M)
Date of decision : 15.01.2024**

Ashok

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Shivansh Malik, Advocate,
and Mr. Ashutosh Verma, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Deepak Vashisth, Advocate,
for respondent No.2.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.85 dated 28.01.2023, under Sections 420, 406 & 506 of the Indian Penal Code, registered at Police Station City, Rohtak.

2. Allegations are that petitioner along with his co-accused, cheated and criminally intimidated the complainant; and committed criminal breach of trust as houses were already constructed on the plot sold to his wife-Asha.

3. This Court, on 09.06.2023, granted interim bail to petitioner and relevant part of the same reads as under:-

“Present petition has been filed under Section 438 Cr.P.C praying for grant of anticipatory bail to the petitioner in case FIR No.85 dated 28.1.2023 under sections 420, 406 and 506 IPC registered at Police Station, City Rohtak, District Rohtak.

Learned counsel for the petitioner has contended that petitioner has been falsely implicated in the present case. He submits that from the allegations made in the FIR it is apparent that the dispute between the petitioner and complainant is purely civil in nature, however, the same has been given the colour of a criminal case only in order to harass the petitioner. It is submitted that co-accused has already filed a petition in this court i.e. CRM-M-10055-2023 in which notice of motion has been issued. He submits that petitioner has no criminal antecedents. Counsel submits that no case for custodial interrogation of the petitioner is made out, however, petitioner is ready to join investigation.

Notice of motion for 21.8.2023.

On the asking of the court, Mr. Kirpal Singh, AAG, Haryana accepts notice on behalf of respondent no.1-State.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- (i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.*
- (ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.*
- (iii) That the petitioner shall not leave India without prior permission of the court.”*

4. Contends that in terms of the aforesaid order, petitioner
has already joined investigation and his custodial interrogation is not

5. Although, learned State Counsel, on instructions from the police officer present in Court, duly acknowledged that petitioner has joined the investigation, but opposed the prayer on the ground that possession of the plot in question has not been handed over to the complainant.

6. Learned counsel for the complainant also vehemently opposed the prayer of petitioner on the premise that they have been cheated by selling a plot on which houses were already constructed.

7. Concededly, petitioner has joined investigation in terms of the order passed by this Court. It is evident that sale deed dated 04.02.2020 (P-1) was executed by the co-accused-Yashpal in favour of the wife of complainant; namely, Asha. It is also discernible that said Asha has further entered into an agreement to sell the plot with one Sandeep after receiving an amount of Rs.48,00,000/- through cheque No.000059 dated 24.06.2022 (HDFC Bank). Therefore, *prima facie*, the allegations of possession appear to be a disputed question and that shall be decided during trial.

8. In view of the above, interim order dated 09.06.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

9. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

10. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
11. Disposed off accordingly.
12. Pending application(s), if any, shall also stand disposed off.

15.01.2024
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No