



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-30494-2024 (O&M)
Decided on : 23.07.2024

BHINDER SINGH

. . . Petitioner(s)

Versus

STATE OF PUNJAB

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Bhupinder Singh Kundra, Advocate
for the petitioner(s)

Mr. Vinay Kumar, DAG, Punjab.

Mr. Harjot Singh Bedi, Advocate for complainant.

KIRTI SINGH, J. (Oral)

The prayer in the present petition filed under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner, in case FIR No.54 dated 10.08.2023, under Sections 406, 420, 120-B of IPC, registered at Police Station Bhadson, District Patiala.

2. Learned counsel for the petitioner *inter alia* submits that entire transaction took place between three persons namely i.e. Satnam Singh, Khushkaranveer Singh and Gurpreet Singh along with Harpreet Kaur and Manjit Kaur and an amount of rupees One crore via cheque and RTGS and Rs.50,00,000/- in cash was received on 03.12.2022 by the above mentioned three persons, to which the petitioner stood witness along with one Dalvir Singh. Thereafter, as per version of FIR, on 31.12.2022, another amount of rupees one crore was received in cash by these three persons and present petitioner along with one Malkit Singh stood witness to the same but petitioner never received any penny out of it and both the parties were



indulged in the transactions with their own free will. As per the FIR, agreement to sell which was executed by above-mentioned three persons with various residents of Village Jindalpur, Tehsil Nabha, District Patiala, the present petitioner was neither party nor witness to them and also has no concern or connection with regard to same and none of the said residents had levelled any allegations against the petitioner.

3. A reply dated 22.07.2024 by way of an affidavit of Davinder Kumar, PPS, Deputy Superintendent of Police, Sub Division Nabha, District Patiala has been filed on behalf of the State by the learned counsel for the State. The same is taken on record.

Further, learned State counsel along with learned counsel for the complainant have vehemently argued that the petitioner is a habitual offender and apart from the present case, the petitioner is an under-trial in four other cases bearing :-

- (i) FIR No.99 dated 22.10.2018 Police Station Bhadson, District Patiala under Sections 420, 467, 468, 120-B of IPC;
- (ii) FIR No.103 dated 06.09.2019 Police Station Bhadson, District Patiala under Section 174A of IPC;
- (iii) FIR No.06 dated 12.01.2020 Police Station Bhadson, District Patiala under Sections 420, 120-B of IPC;
- (vi) FIR No.101 dated 07.10.2022 Police Station Bhadson, District Patiala under Sections 420, 467, 468, 471 of IPC.

In addition, there are four more following cases registered against the petitioner :-

- (i) FIR No.17 dated 03.03.2006 Police Station Bhadson, District Patiala under Sections 324, 325, 148, 149 IPC;
- (ii) FIR No.93 dated 10.10.2018 Police Station Bhadson, District Patiala under Sections 451, 323, 447, 511, 506, 148, 149 of IPC;



- (iii) FIR No.11 dated 03.02.2020 Police Station Kotwali Nabha, District Patiala under Section 52-A of Prisons Act;
- (iv) FIR No.91 dated 05.06.2020 Police Station City-1, Malerkotla, District Malerkotla under Section 420 of IPC.

Apart from above FIRs, numerous cases under Section 138 of Negotiable Instruments Act are filed against the petitioner. He, therefore, contends that in view of serious allegations and criminal antecedents of the petitioner is not entitled to the grant of anticipatory bail.

4. The learned State counsel, while opposing the relief of anticipatory bail to the petitioner, refers to paragraph Nos. 7 and 8 of the status report, which are reproduced below:

“7. That it is the petitioner who has earlier dealt with the complainant at number of occasions in the sale and purchase of the different lands and he had received Rajnaer commission amounts from them, thereby he gained faith of the complainant and his family. The petitioner in active conspiracy of his accomplices induced the complainant to buy a purported land of 20 Acres 38 Biswas situated at Village Jindalpur, Sub Tehsil Bhadson, District Patiala by showing fake and forged agreements allegedly executed by Khewatdars of the Village in favour of Satnam Singh, Khushkaranvir Singh and Gurpreet Singh. Thereafter, the petitioner got executed an agreement to sell from Satnam Singh, Khushkaranvir Singh and Gurpreet Singh in favour of wife and mother in law of complainant regarding 20 Acres 38 Bighas of land at the rate of Rs.34,00,000/- Per Acre (96 Biswas) and the petitioner himself became marginal witness to the same by signing as witness. The petitioner and other accused persons in total received Rs.2 Crore 50 Lakh from the complainant party.

8. The complainant party has come to know later on that the said agreements purportedly executed by Khewatdars of Village Jindalpur in favour of Satnam Singh, Khushkaranvir Singh and Gurpreet Singh were forged and fabricated and they have cheated the complainant party. The petitioner is the mastermind behind all the fraud and cheating committed him in conspiracy with his co-accused.”

5. Heard the rival submissions made by the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of ***Jai Prakash Singh v. State of Bihar and another: (2012) 4 SCC 379***, held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and



would not misuse his liberty. (See also *D.K. Ganesh Babu v. P.T. Manokaran* (2007) 4 SCC 434, *State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain* (2008) 1 SCC 213 and *Union of India v. Padam Narain Aggarwal* (2008) 13 SCC 305).

7. In *Siddharam Satlingappa Mhetre v. State of Maharashtra* (2011) 1 SCC 694, the principles established by the Constitution Bench in *Gurbaksh Singh Sibbia v. State of Punjab* (1980) 2 SCC 565 case were considered and after a thorough deliberation, the court arrived at the following conclusion:

"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:

- (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
- (iii) The possibility of the applicant to flee from justice;
- (iv) The possibility of the accused's likelihood to repeat similar or other offences;
- (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
- (vi) Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people.

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8. In *Sushila Aggarwal v. State (NCT of Delhi)* (2018) 7 SCC 731, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.



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9. The relief of Anticipatory Bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.

10. Keeping in view the conduct of the petitioner as well as the criminal antecedents and gravity of the offence, his custodial interrogation would certainly be necessary and to take the investigation to its logical conclusion.

11. In view of the above, I find no merit in the present petition. Therefore, the same stands **dismissed**.

(KIRTI SINGH)
JUDGE

July, 23 2024
Kavita Nain

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