

CRM-M-31059-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31059-2024
Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Vishwas ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sunny Tyagi, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

Mr. Adarsh Saini, Advocate (Through VC)
for respondent No.2

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
148	07.04.2023	Central Faridabad, District Faridabad	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. As per paragraph 13 of the bail petition and para 9 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	41	2023	406, 420 IPC	Bhupani
2	73	2023	406, 420 IPC	Bhupani
3	81	2023	406, 420 IPC	Bhupani
4	119	2023	420, 120-B IPC	Bhupani
5	126	2023	406, 420 IPC	Central

3. Facts of the case are being taken from reply dated 15.07.2024, which reads as under:-

“That the facts led to file the present petition are that a complaint was received from Shri Prakash Veer son of J.R. Pathak, on the allegations that petitioner Vishwas was owner of Khasra No. 177, Khatoni No. 225, Mustil no. 25, Killa No. 11 (8-0), measuring 8 Kanals, vide Sale Deed No. 2926 dated 09.09.2011. The petitioner entered into two separate

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agreements dated 12.02.2015 with the complainant regarding plot No. 17 measuring 100 sq Yards and plot No. 18 measuring 115 sq. yards. The complainant had made payment of Rs. 13,80,000/- out of Rs. 14,43,500/- vide receipt. The date of execution of sale deed was fixed for 30.07.2015, however the Sale Deed could not be executed as the government banned it. Despite this complainant had made payment of remaining amount. When complainant had visited his plots, he found that accused had sold out the land to some other persons and possession was also handed over to other persons, who had constructed house on it. When the petitioner tried to contact the accused, he found that his number was blocked by petitioner. Despite efforts made by complainant, accused was not found. In the complaint the complainant prayed for strict action against the petitioner for alleged forgery. On these allegation the present FIR was registered.”

4. The petitioner's counsel argues that the dispute between the parties is civil in nature and complainant is trying to implicate the petitioner falsely in this criminal case. As per the agreement to sell last date of registry was 20.07.2015 but complainant himself did not turn up for registry. Now after eight year the present FIR has been got registered as the present complainant did not file any civil suit for specific performance of contract and the limitation for filing the civil suit has expired and this FIR is an attempt to convert case of civil nature to a criminal matter.

5. 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.

6. The State opposes bail and has referred to paras 3 & 4 of the reply, which reads as under:-

“3. That after registration of FIR the investigation was set into motion. The statement of witnesses recorded. The accused was served with notice under section 41 A of CrPC to join the investigation. However, the accused/petitioner instead of joining the investigation, filed petition seeking anticipatory bail before Ld. Additional Sessions Judge, Faridabad. The Ld. ASJ vide its order dated 27.06.2023 directed the petitioner to join the investigation on or before 14.07.2023. As such the petitioner was granted concession of interim bail till 14.07.2023 on the condition that he shall join investigation within ten days from the date of orders and shall made himself available for interrogation by police official as and when required. But the petitioner despite repeated opportunities given did not join the investigation in the present case, which shows that he has no respect of law. The Ld. ASJ Faridabad vide order dated 25.07.2023, cancelled the interim bail granted to petitioner and dismissed his application of anticipatory bail.

4. That the police, in order to apprehend the petitioner, conducted raids on his probable hide outs. But the petitioner/accused could not be arrested because he went underground to evade his arrest. Finally the police filed an application dated 20.04.2024 before the Ld. Trial Court for issuing

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arrest warrant against the petitioner/accused. The Additional Chief Judicial Magistrate, Faridabad vide order dated 18.05.2024 issued warrant of arrest of petitioner and directed the police to produce the petitioner on or before 20.07.2024.”

7. It would be appropriate to extract paras 6 & 7 of the reply which read as follows:

“6. That the role of the petitioner in the present case is that he, with a dishonest intention cheated the complainant. In fact the complainant purchased two pieces of plots bearing No. 17 measuring 100 sq yards and plot No. 18 measuring 115 sq yards vide two Agreements to Sell dated 12.02.2015 from the petitioner. The total sale consideration amount of two plots was agreed to be Rs. 14,43,500/-. The complainant paid Rs. 13,80,000/- to the petitioner out of the agreed amount of Rs. 14,43,500/- against the purchase of above mentioned plots. However, the petitioner sold the plots/land mentioned in the agreement dated 12.02.2015 to some other persons named Bholu Giri and Pappu son of Sahoj Ram.

7. That as the allegations mentioned in complaint reveals that petitioner Vishwas Sharma introduced himself as owner in possession of land bearing Khasra No. 177, Khatoni No. 225, Mustil No. 25, Kila No. 11 (8-0) vide sale deed No. 2926 dated 09.09.2013 registered at the office of Sub Registrar Tigaon, Faridabad. Out of the said land, the petitioner executed two Agreements of Sell dated 12.02.2015 in favour of the complainant regarding plots mentioned above. The date of execution of sale deed was fixed as 30.07.2015. Out of the agreed amount of Rs. 14,43,500/-, the complainant paid Rs. 13,80,000/- through cheque and cash. During the investigation, it has been found that the petitioner executed the agreement pertaining to plot No. 17 and 18 situated in Mustil No. 25 Kila No. 11(8-0) but dishonestly delivered the plots to complainant situated in other revenue numbers (Mustil No. 42, Kila No. 11/3(0-1), 12/2(6-19), 13(8-0) at different location. Later on deceitfully, the petitioner sold the plots of the complainant to other persons named Bholu Giri and Pappu son of Sahoj Ram. As such the petitioner has cheated the complainant in a well planned manner.”

8. It would also be pertinent to refer to the order of bail rejection dated 25.07.2023, passed by the Additional Sessions Judge, which reads as follows:-

“Status report filed by the prosecution wherein it is mentioned that applicant-accused Vishwas has not come to join the investigation. Despite repeated opportunities, the applicant-accused Vishwas has not joined the investigation in the present case. This shows that he has no respect of law. Keeping in view the aforesaid situation, the application moved by the applicant-accused Vishwas son of J.S. Sharma for grant of anticipatory bail stands dismissed. Interim order dated 27.06.2023 stands cancelled. File after due compliance be consigned to records.”

9. There is a specific allegation by the complainant of being duped for Rs. 13,80,000/- and the investigation found truth in such allegation and has collected sufficient evidence that prima facie indicts the petitioner. Furthermore, the petitioner had seven similar types of FIRs, out of which he compromised six, which points towards his

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modus operandi and the petitioner’s malicious intent.

10. A perusal of the bail petition and the documents attached, prima facie points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

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

12. Petition dismissed. Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.