



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

**CRM-M-33671-2024
DECIDED ON: 17.07.2024**

**HARVINDER KAUR ALIAS RAVINDER KAUR AND OTHERS
.....PETITIONERS**

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Sandhu, Advocate
for the petitioners.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioners in FIR No.470, dated 24.06.2024, under Sections 406, 420 IPC, registered at Police Station Assandh, District Karnal.

2. Learned counsel for the petitioners contends that the dispute revolves around a contractual obligation and as such, it is civil in nature wherein any criminal liability cannot be fastened upon the petitioners which arises from one agreement to sell dated 12.09.2022 executed between petitioners No.1 and 3 and the complainant qua agricultural land measuring 10 kanal in favour of the complainant and the date of execution of sale deed was fixed for 15.03.2023 and for certain reasons sale deed could not be executed on the date fixed before the concerned Tehsildar and hence, the instant FIR has been lodged by the complainant.

3. Notice of motion.

4. On the asking of the Court, Mr. B.S. Virk, Sr. DAG, Haryana accepts notice on behalf of the respondent-State and seeks dismissal of the instant petition after having gone through the instructions from the Investigating Officer that the petitioners are alleged to have committed offence under Sections 406, 420 IPC on account of not getting the sale deed executed despite having received earnest money to the tune of Rs.15,00,000/- out of total sale consideration fixed at the rate of Rs.36,40,000/- per acre wherein the land is over and above one acre which was to be calculated accordingly.

5. Be that as it may, reference has been made to FIR which is reproduced hereinbelow:-

“To SHO Police Station Assandh, Distt. Karnal. Against 1. Harvinder Kaur @ Ravinder Kaur wife of Kabal Singh. 2. Kabal Singh son of Karnel Singh 3. Rupinder Kaur wife of Jabir Singh 4. Jabir Singh son of Karnel Singh, resident of Village Khijrabad, Tehsil Assandh, Distt. Karnal 5. Punjab Singh son of Ajaib Singh resident of Village Rattak Mobile No. 9996043593. 6. Mukhtiar Singh son of Tehal Singh resident of Village Urlana Kalan, Distt. Panipat. 7. Buntty Dealer mobile No. 9896581821. Sir, it is submitted that I, Ajit Singh son of Ramdhari son of Devi Singh is resident of Ladsoli, Tehsil Ganaur, Distt. Sonipat. We had purchased land measuring 10 kanal from above Harvinder Kaur and Rupinder Kaur. The agreement regarding purchase of land was return on 12.09.2022 and Rs. 15 lacs. were paid to them. They told that there is a loan of Rs. 2 lacs on the above land. We had paid Rs. 2 lacs separately to clear the loan. The date for execution of sale deed was fixed as

15.03.2023. The above person refused to execute the sale deed by saying that they will not get the sale deed registered but themselves appeared and after getting their presence marked, they sent us notice. Thereafter, Panchayat were convened. The kept on lingering on the matter but now have refused to execute the sale deed. When we visited their house, they started abusing us. Punjab Singh, Mukhtiar Singh and Bunty Singh were our dealer and had taken commission from us in advance and now, when we call them, they are not ready to talk and are supporting the other party. All above, inconvenience with each other wants to grab our money. The above person have threatened us that in case they will find us there, they will kill us. We have purchased 4 acres adjoining to them but being scared from them, we are not going to take care that land as well. We are apprehending danger to the life and liberty and the same be protected from them.”

6. Having given a considerable thought and to the ratio laid down in the case of ***Siddharam Satlingappa Mhetre versus State of Maharashtra and others, 2011 (1) RCR Criminal 126***, wherein certain facts and parameters are laid down for consideration while dealing with the anticipatory bail which are reproduced hereinbelow:-

The following factors and parameters can be taken into consideration while dealing with the 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 the 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.*
 - vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
 - viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
 - ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
 - x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.*
- 123. The arrest should be the last option and it should be restricted to those exceptional cases where arresting the*

accused is imperative in the facts and circumstances of that case."

7. Apart from the abovesaid fact, the judgments rendered by the Constitutional Bench of Hon'ble Supreme Court in ***"Gurbaksh Singh Sibbia and others versus State of Punjab"***, (1980) 2 SCC 565 and ***"Arnesh Kumar versus State of Bihar"***, 2014 (8) SCC 273, also needs to be taken into account.

8. Having given a considerable thought, I am of the considered view that in the light of the fact that it is only on account of non-fulfillment of ones obligation i.e. to get the sale deed executed within the stipulated date after having received earnest money to the tune of Rs.15,00,000/-, it cannot be culled out, at this stage that the intention to cheat was very much present at the very inception of the agreement to sell dated 12.09.2022 and hence, other efficacious civil remedies are available to the complainant and having the custody of the petitioner would not serve any purpose wherein nothing is to be recovered from the possession of the petitioner.

9. In the light of abovesaid reasons recorded hereinabove and observations made by this Court, this Court deems the instant petition to be a fit case for accepting the anticipatory bail of the petitioners.

10. Hence, the petitioners are directed to be released on anticipatory bail subject to their joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioners shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C.

11. However, it is made clear that in case the petitioners do not comply with the aforesaid direction of joining the investigation within one

week, the order passed by this Court today shall automatically stands cancelled.

12. The petition in the aforesaid terms stands allowed.

17.07.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>