

CRM-M-35543-2023

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(101+211)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CRM-M-35543-2023
Date of decision :06.03.2024
ROSHAN LAL
... Petitioner

Versus

STATE OF PUNJAB
...Respondent
CRM-M-36964-2023 (O&M)

JASWINDER KAUR &ANOTHER
... Petitioners

Versus

STATE OF PUNJAB
...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner in CRM-M-35543-2023.

Mr. B.D. Sharma, Advocate
for the petitioners in CRM-M-36964-2023.

Mr. Deepinder Singh Brar, Addl. DAG, Punjab.

Mr. Ranjit Saini, Advocate and
Mr. Bharat Puri, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

This order shall dispose of two petitions bearing No.CRM-M-35543-2023 titled as Roshan Lal Versus State of Punjab and CRM-M-36964-2023 titled as Jaswinder Kaur & another Versus State of Punjab as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRM-M-36964-2023.

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2. The prayer in the present petitions under Section 438 Cr.P.C. is for the grant of regular bail in case bearing FIR No.184 dated 23.06.2023 registered under Sections 406, 420 & 120-B IPC and Section 82 of Registration Act, 1908 at Police Station Rama Mandi Jalandhar, District Jalandhar.

3. The present FIR came to be registered on the basis of various inquiry reports and the same reads as under:-

“Reference application No. 1610-BCB dated 29.03.2023, Application No. 1129-PTM dated 07.06.2023, to respected DCP, Jalandhar. Subject:- Complaint against 1. Jaswinder Kaur wife of Manjit Singh, 2. Manjit Singh resident of House No. 412, Hoshiarpur Road, 3. Roshan Lal son of Fakir Chand resident H.No. 226, Upkar Nagar, Jalandhar and two sons of Roshan Lal who under conspiracy entered into an agreement to sell of 20 Marlas 66 Sq.ft. plot for a sum of Rs. 40 lakhs and after receiving the money have executed a forged sale deed and played fraud. Sir, It is requested that I Wasim Ahmed son of Sh. Kurban Shah resident of House No. 166, Jaimal Nagar, Jalandhar submit the following request in writing:- 1. That my acquaintance Murgesh Kumar @ Prince son of Subramani resident of NA30 Jagatpura, Jalandhar works as a property dealer. I had a talk with him one year ago regarding purchase of plot. He alongwith his acquaintance Roshan Lal above said accused showed me one plot situated at Chakk Hussiana Lamma Pind measuring 20 Marlas 60 Sq.ft. Roshan Lal above said informed that this plot belongs to Jaswinder Kaur wife of Manjit Singh resident H.No. 412, Hoshiarpur Road, Jalandhar whose husband Manjit Singh son of Late Sh. Banta Singh resident of NA 412 Hoshiarpur Road,

Jalandhar is known to him and they will get a deal struck between us. Roshan Lal introduced them to me. At that time the deal between us struck at the rate of Rs. 2,40,000/- per marla and my acquaintance Prince son of Subramani resident of H.No. NA 30 Jagatpura Jalandhar property dealer and Goldy son of Manohar Lal resident of NA125, Kishanpura, Jalandhar were also present and in their presence Rs. 10 Lakhs in cash was given as earnest money by selling another plot. Cash amount was taken from Ram Raj residents of Kishanpura, Jalandhar and another amount of Rs. 15 Lakhs thus making a total of Rs. 30 Lakhs and grand total of Rs. 40 Lakhs has been paid. The amount of Rs. 40 Lakhs was taken away by both the sons of Roshan Lal. I request your good-self that the abovementioned Roshan Lal admitted that he has got a forged sale deed executed and is asking us to get a case under Section 420 registered and he is also saying that he will return Rs. 10 Lakhs in cash and Rs. 40 Lakhs through cheques. He has handed over the cheques but he is not giving Rs. 10 Lakhs. It is requested that above mentioned persons have played fraud with us. Both the sons of Roshan Lal are about to go abroad. It is therefore requested that action may be taken against him at the earliest. Thanking you. Sd/- Wasim Ahmed. Yours faithfully. Wasim Ahmed son of Kurban Shah resident of 166, Jaimal Nagar, Jalandhar M.No. 98882-33586. The abovementioned complainant was marked to ACP/PBI/EOW for enquiry and its enquiry was carried out by Incharge Economic Offences Wing who in his report has written:- Sir, it is requested that that above numbered complaint was got enquired from ASI Vijay Kumar and I am in agreement with his report. The enquiry of the complaint revealed that opposite

party Roshan Lal is the master mind and he inspite of being well aware that plot situated at Chakk Hussiana Lamma Pind measuring 20 marlas 60 Sq.ft. was purchased by Ram Kumar, Sakuntla Devi and Devi Raj in the year 1995 and they had after constructed the boundary wall installed a gate but still the opposite party Roshan Lal in consultation with Manjit Singh and Jaswinder Kaur by giving wrong facts to the complainant and dealer Murgesh Kumar and showing documents regarding ownership of Iqbal Singh had entered into an agreement to sell the plot at the rate of Rs. 1,60,000/- and had obtained total amount of Rs. 32 Lakhs. Initially they had received Rs. 10 lakhs as earnest money on 21.06.2022 and entered into an agreement to sell in which they have got entered different Khasra numbers on 21.06.2022. The last date for execution of the sale deed for fixed as 21.12.2022 and remaining amount is stated to have been received on the date of execution of the sale deed by the two sons of Roshan Lal namely Amandeep Chaudhary @ Kalia and Rajnish Chaudhary @ Raja at Tehsil Complex amounting to Rs. 22 Lakhs. Roshan Lal inspite of the knowledge that Iqbal Singh has expired on 05.02.2022 has by getting executed the sale deed in favour of Nazia Hassan wife of the complainant from Manjit Singh and Jaswinder Kaur as general attorney and special attorney with intention to play fraud has by getting mentioned Khasra Nos. 3080/297-298, 340/1, 422/2 of a different area in the sale deed 8618 dated 24.11.2022 has played fraud. As per the report of the Revenue Record the Area of the plot at the spot falls within Khasra Nos. 281-1282-1284-1287-1280 and these Khasra Nos are of the land purchased by Ram Kumar, Sakuntla Devi and Devi Raj in the year 1995.

The opposite party Roshan Lal and Manjit Singh by not returning Rs. 40 Lakhs and getting the payment of four cheques stopped have defrauded the complainant of Rs. 40 lakhs. Roshan Lal and his sons Aman Chaudhary, Rajnish Chaudhary, Sandeep Chaudhary and Deepak Chaudhary have also been found to have defrauded Asha Rani wife of Late Ram Kumar Attorney of original owners Ram Kumar, Shakuntla Devi and Devi Raj on the pretext of vacating the possession of the plot to the tune of Rs. 6 Lakhs and Roshan Lal in order to receive the money has also entered into an agreement/compromise with Asha Rani therefore, if approved, the case may be registered against master mind Roshan Lal son of Fakir Chand resident of House No. 266, Upkar Nagar Jalandhar and Jaswinder Kaur wife of Manjit Singh, Manjit Singh son of Shamir Singh resident of House No. 412, Hoshiarpur Road, Santokhpura, Jalandhar under Sections 406, 420, 120-B IPC at Police Station Rama Mandi, Jalandhar Commissionerate and carried out investigation and in case any role of Aman Chaudhary, Rajnish Chaudary, Sandeep Chaudhary and Deepak Chaudhary comes to fore, then appropriate action as per law will be taken. Sd/- Kuldeep Singh SI Incharge Economic Offences Wing, Jalandhar Commissionerate. Dated 14.06.2023. On this the Assistant Commissioner of Police PBI, Economic Offences Wing and Cyber Crime, Jalandhar has expressed his approval and ADCP-INV in his report has written while agreeing with enquiry report submitted by Incharge Economic Offences Wing and Assistant Commissioner of Police EOW recommended the registration of a case against Roshan Lal son of Fakir Chand resident of House No. 266 Upkar Nagar, Jalandhar, Jaswinder Kaur wife of Manjit Singh and

Manjit Singh son of Shamir Singh resident of House No. 2112, Hoshiarpur Road, Shatokhpura under Section 406, 420, 120-B IPC at Police Station Rama Mandi, Jalandhar Commissionerate and in case any role of Aman Chaudhary, Rajnish Chaudhary, Sandeep Chaudhary and Deepak Chaudhary is found later on during investigation, to proceed accordingly. Sd/- Additional Deputy Commissioner of Police, INV, Jalandhar. On this the Deputy Commissioner of Police Local-Cum-City Jalandhar Commissioner has expressed his approval and DCP investigation Jalandhar has written DA Legal for an opinion. Please. Dated 21.06.2023. On this DA Legal, Jalandhar in his report has written, Sir, I have accordingly perused the above mentioned complaints submitted by Wasim Ahmed alongwith enquiry reports of Incharge Economic Offences Wing submitted through Assistant Commissioner of Police, PBI, Economic offence and Cyber Crime, Jalandhar Commissionerate and Additional Deputy Commissioner of Police, Investigation, Jalandhar and the enclosed documents carefully. The case file has also been discussed with your good-self. The enquiry officer in his enquiry report dated 14.06.2023 has found that master mind Roshan Lal was well aware that plot measuring 20 Marla 60 Sq.ft. at Chakk Hussiana Lamma Pind has been purchased by Ram Kumar, Shakuntla Devi and Devi Raj in the year 1995. They have also constructed the boundary wall and installed a gate in this plot. Still opposite party Roshan Lal in consultation with Manjit Singh and Jaswinder Kaur by giving wrong facts to the complainant and dealer Murgesh Kumar and showing documents regarding ownership of Iqbal Singh by entering into an agreement to sell the plot alongside the

plot at the rate of Rs. 1,60,000/- which comes to Rs. 32 lakhs i.e. initially receiving Rs. 10 Lakhs as earnest money on 21.06.2022 at the time of entering into the agreement into the sell with Nazia Hassan by mentioning different Khasra numbers on 21.06.2022 and fixed the last date of execution of the sale deed as 21.12.2022 and thereafter receiving the remaining amount by Amandeep Chaudhary @ Kalu and Rajnish Chaudhary @ Raja son of Roshan lal on the date of execution of the sale deed at Tehsil Complex an amount of Rs. 22 lakhs is stated to have been received. Roshan Lal in spite of knowledge that Iqbal Singh has died by getting the sale deed executed from Manjit Singh and Jaswinder Kaur general attorney and special attorney after the death of Iqbal Singh on 05.02.2022 with an intention to play fraud had got executed the sale deed in favour of Nazia Hussan by mentioning Khasra Nos. 3082/297-298, 341/1, 422/2 of a different area in the sale deed No. 8618 dated 24.11.2022 with an intention to play fraud and by getting the sale deed executed has played fraud. As per report of the Revenue Department the area of the plot falls under Khasra Nos. 1281-1282-1284-1287-1280 and these khasras are owned by Ram Kumar, Shakuntla Devi and Devi Raj having been purchased in the year 1995. The opposite party Roshan Lal and Manjit Singh by not returning the amount of Rs. 40 lakhs to the complainant and getting the payment of 4 cheques stopped played fraud to the tune of Rs. 40 Lakhs on the complainant and Roshan Lal and the sons Aman Chaudhary, Rajnish Chaudhary, Sandeep Chaudhary and Deepak Chaudhary are also stated to have defrauded an amount of Rs. 6 Lakhs from Asha Rani wife of late Ram Kumar who is attorney of the original owners Ram Kumar, Shakuntla

Devi and Devi Raj on the pretext of vacating the possession of the plot and Roshan Lal in order to receive the money has entered into an agreement/compromise with Asha Rani. On this basis, the enquiry officer has recommended for registration of a case against master mind Roshan Lal son of Fakir Chand, Jaswinder Kaur wife of Manjit Singh and Manjit Singh son of Shamir Singh under Section 406, 420, 120-B IPC and in case during investigation any role of Aman Chaudhary, Rajnish Chaudhary, Sandeep Chaudhary and Deepak Chaudhary surfaces to proceed in accordance with law accordingly. The respected Deputy Commissioner of Police Local-Cum-City Jalandhar Commissionerate has also agreed with the same. The allegations leveled by the complainant disclose the commission of cognizable offences and the Hon'ble High Court in the case of Lalita Kumari Vs State of U.P. has directed in case that the complaint discloses the commission of cognizable offences, a case is required to be registered under Section 154 Cr.P.C. The above fact have been verified by a gazetted officer and therefore in my opinion a case is required to be registered on the basis of the complaint, statement and enquiry report against Roshan Lal son of Fakir Chand, Jaswinder Kaur wife of Manjit Singh and Manjit Singh son of Shamir Singh under Section 406, 420, 120-B IPC read with Section 82 of the Indian Registration Act, 1908 and in case during the investigation the role of remaining accused Aman Chaudhary, Rajnish Chaudhary, Sandeep Chaudhary and Deepak Chaudhary is required to be probed deeply during the investigation and further action as per law is required to be taken. The above facts can be investigated in the case deeply under the supervision of area gazetted

officer. If approved, appropriate orders may be passed. Sd/- District Attorney Legal, Jalandhar. On this the respected DCP Investigation, Jalandhar has written SHO, Police Station Rama Mandi to register the case and investigate. Dated 23.06.2023. Today at Police Station:- On receipt of complaint No. 1610-DCP dated 28.03.2023 alongwith enquiry report, statements, relevant documents through the Naib Court at the Police Station, FIR No. 184 dated 23.06.2023 under Section 406, 420, 120-B IPC read with Section 82 of the Indian Registration Act, 1908 was registered at Police Station Rama Mandi, Jalandhar and the above numbered complainant alongwith enquiry report, statements and relevant documents and copy of FIR have been handed over for further investigation to SI Jasvir 566. SHO of the Police Station and Police Control Room have been informed on telephone. Completion Report No. 53 dated 23.06.2023.”

4. The learned counsel for Roshan Lal (petitioner in CRM-M-35543-2023) contends that he had been apprehended being a father of the other co-accused. In fact, the attempt was to inculcate the petitioner so as to pressurize his sons to compromise the matter with the complainant. As per the FIR, no amount had been given to the petitioner but only to his sons. It was unbelievable that such a heavy amount had been given in cash without any amount being deposited in the bank account of the petitioner. The instant FIR was a counter-blast to the petition filed by the petitioner against the official respondents who were police officials. As the case was based on documentary evidence and the petitioner was ready and willing to join investigation, he was entitled to the concession of bail.

5. The learned counsel for Jaswinder Kaur and Manjit Singh (petitioner Nos.1 & 2 in CRM-M-36964-2023) contends that as per the complainant, Murgesh Kumar the property dealer had introduced him (complainant) with co-accused Roshan Lal (petitioner in CRM-M-35543-2023) who represented to the complainant that a plot measuring 20 marla 60 Sq. ft. was owned by petitioner No.1-Jaswinder Kaur. An amount of Rs.40 lakhs had been given to the sons of co-accused Roshan Lal who got the sale deed executed from petitioner No.1-Jaswinder Kaur in favour of the complainant. Later, Roshan Lal admitted his fraud and agreed to return back the amount of Rs.40 lakhs. He had issued cheques of Rs.30 lakhs which came to be dishonoured. Roshan Lal also failed to return Rs.10 lakhs in cash. It was thus apparent that the petitioners had not received any money and the entire amount of Rs.40 lakhs had been received by Roshan Lal. Roshan Lal was aware of the entire fraud and that the plot in question was owned by Ram Kumar, Shakuntla Devi and Devi Raj who had purchased the same in the year 1995. It was Roshan Lal who had misrepresented to Murgesh Kumar property dealer and the complainant that the property was owned by Iqbal Singh. Iqbal Singh was the cousin brother of petitioner No.2-Manjit Singh and was duly recorded as owner in possession of the land as per the revenue record. Iqbal Singh had appointed petitioner No.2-Manjit Singh as a GPA who had further appointed petitioner No.1-Jaswinder Kaur as a SPA. The agreement to sell in favour of Nazia Hassan was executed on 21.06.2022 by petitioner No.1-Jaswinder Kaur followed by a sale deed on 24.11.2022. Though, the mutation had been sanctioned in favour of

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Nazia Hassan, wife of the complainant, the possession remained with Roshan Lal. Therefore, the offence if any had been committed by him. Even otherwise, a dispute regarding demarcation of the said plot was pending between Roshan Lal on the one hand and Ram Kumar, Shakuntla Devi and Devi Raj on the other. A civil suit in that regard had also been filed. He, therefore, contends that as the case was based on documentary evidence and it was Roshan Lal who was the main accused, the petitioners were entitled to the concession of bail.

6. On the other hand, the learned State counsel along with the counsel for the complainant contend that Iqbal Singh, the cousin of Manjit Singh (petitioner No.2 in CRM-M-36964-2023) had given him a GPA on 26.10.2016. Iqbal Singh passed away on 05.02.2022. However, based on the aforementioned GPA, Manjit Singh executed a SPA in favour of his wife Jaswinder Kaur (petitioner No.1 in CRM-M-36964-2023) who then executed the sale deed on 24.11.2022 without having the power to do so. Further, the details of the land mentioned in the sale deed corresponded to that land which is in the ownership and possession of three other persons namely, Ram Kumar, Shakuntla and Devi Raj. Roshan Lal (petitioner in CRM-M-35543-2023) was the property dealer who in connivance with Jaswinder Kaur and Manjit Singh defrauded the complainant and received a huge amount of money. Therefore, as the offence was *prima facie* established, no case for the grant of anticipatory bail was made out and the present petitions were liable to be dismissed.

7. I have heard the learned counsel for the parties.

8. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial***

interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

9. As per the investigation conducted so far, it transpired that the plot in question was purchased by Ram Kumar, Shakuntla Devi and Devi Raj in the year 1995. However, thereafter, Roshan Lal (petitioner in CRM-M-35543-2023) in connivance with Jaswinder Kaur and Manjit Singh (petitioner Nos.1 and 2 in CRM-M-36964-2023) by showing Iqbal Singh to be the owner of the said plot got executed an agreement to sell through Jaswinder Kaur and Manjit Singh in favour of Nazia Hassan, wife of the complainant on receipt of Rs.10 lakhs. The sons of Roshan Lal had also received Rs.22 lakhs and the date was fixed for execution of the sale deed. With the intention to commit fraud, Roshan Lal in connivance with the other accused got executed a sale deed qua the said plot in favour of Nazia Hassan, wife of the complainant on the

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basis of a SPA executed by Manjit Singh in favour of Jaswinder Kaur which was based on a GPA of Iqbal Singh in favour of Manjit Singh dated 26.10.2016 even after death of Iqbal Singh on 05.02.2022. The property sought to be sold is owned by Ram Kumar, Shakuntla Devi and Devi Raj though a reference has been made to a civil suit filed for declaration by Roshan Lal against the aforementioned three persons to the effect that he was the owner of the said property. The fact remains that the complainant has parted with a huge amount of money on account of purchase of property. However, despite the revenue record being in his favour, he does not have possession of even an inch of land which clearly establishes that all the petitioners collectively and in connivance with each other have cheated him. Therefore, the offence is *prima facie* established against the accused. Further, to take the investigation to its logical conclusion, the custodial interrogation of the petitioners is certainly necessary.

10. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

11. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

06.03.2024
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No