

CRM-M-32559-2019  
Decided on: 09.09.2024

## Versus

State of Haryana ..... Respondent

Present: Mr. Rakesh Nehra, Sr. Advocate with  
Ms. Bindu Tanwar, Advocate and  
Mr. Reetesh Kumar, Advocate  
Mr. Vikalp Hooda, Advocate for the petitioner.

Ms. Trishanjli Sharma, DAG, Haryana.

Mr. Ravinder Hooda, Advocate  
for the complainant.

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***Manjari Nehru Kaul, J.***

The present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner in case FIR No.217 dated 08.07.2019 under Sections 406 and 420 IPC registered at Police Station Arya Nagar, Rohtak.

2. On 22.05.2024, while noticing the following submissions made by the learned Senior counsel for the petitioner, this Court had granted the concession of interim bail to the petitioner and asked him to join investigation:

*“Learned Senior counsel for the petitioner submits that the petitioner is innocent and has been falsely*



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*implicated in this case, which is essentially a civil dispute. An agreement to sell a property was entered into on 28.05.2018, between the petitioner and the complainant. The complainant paid an earnest amount of ₹15 lakh. The agreement, as is evident from Annexure P-2, clearly stated that the petitioner had taken a loan from Oriental Bank of Commerce against the property. It was also specified that after obtaining permission from the bank, the complainant would have four months to execute the sale deed. There was no concealment of facts in the agreement.”*

3. Learned Senior counsel for the petitioner has reiterated that in compliance of order dated 22.05.2024, petitioner has joined the investigation and cooperated with the investigating agency.

4. Learned State counsel, on instructions, has not disputed the submissions made by the counsel for the petitioner. She, on further instructions, submits that the petitioner is not required for custodial interrogation except for the recovery of Rs.15 lacs (earnest money). However, learned counsel for the complainant has opposed the prayer made by learned Senior counsel for the petitioner and submitted that since the earnest money has not been recovered, his prayer for anticipatory bail be declined.

5. Heard learned counsel for the parties and perused the relevant material available on record.

6. Hon'ble the Supreme Court has repeatedly emphasised that Courts must assess the prayer for bail application independently, without



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being swayed by the arguments of the State or the complainant that recovery of certain articles or money is yet to be affected. It has been emphasised by Hon'ble the Supreme Court that the role of the Court is not to aid or assist in recovering the money or articles of the complainant. Rather, the Courts are expected to just prioritise as to whether the parameters laid down for the concession of bail are met, instead of facilitating the recovery of money etc.

7. In view of the above, present petition is allowed and interim order dated 22.05.2024 is made absolute subject to the conditions as envisaged in Section 438(2) Cr.PC/482(2) of BNSS, 2023.

09.09.2024  
*Sonia*

**(MANJARI NEHRU KAUL)**  
**JUDGE**

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