



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

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CRM-M-38080-2024(O&M)
Date of Decision : **September 9, 2024**

Madhu Garg @ Madhu Gupta

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. G.P.S.Ghuman, Advocate for the petitioner.
Mr. Pardeep Bajaj, DAG, Punjab.
Mr. B.S.Jaswal, Advocate for the complainant.

KULDEEP TIWARI, J. (Oral)

CRM-36261-2024

1. The instant application has been filed for modifying the interim order dated 6.8.2024, so as to include Sections 465, 468, 471 IPC, which were lateron added by the police.

2. For the reasons mentioned in the application, the same is allowed and it is ordered that Sections 465, 468, 471 IPC, be added in the order dated 6.8.2024, as well as in the head note and prayer clause of the instant petition.

3. The Registry is directed to make necessary corrections in the order dated 6.8.2024, as well as in the head note and prayer clause of the instant petition.

Main case

4. Through the instant petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, prayer is made for grant of anticipatory bail to the petitioner in case FIR No.0189 dated 13.7.2024, under



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Sections 420, 465, 468, 471 IPC, registered at Police Station Sadar Kharar, District SAS Nagar.

5. The instant FIR, has been registered on a complaint made by one Subhash Johar, wherein, he alleged that one Atul Arora, Amit Kumar Gupta and Madhu Gupta (present petitioner) duped him to the tune of Rs.30,50,000/- on the pretext of sale of booth nos. 15 and 28, situated at Luxurio Sukh Plaza, on Ludhiana-Chandigarh State Highway, BH-5, Bhago Majra Road, Near Toll Plaza, SAS Nagar, Mohali, however, neither, the possession of the said booths was delivered to the complainant, nor his money was returned. The detailed allegations, which are culled out from the order of the the learned Additional Sessions Judge concerned read as under:-

“That he was searching for a property for investment purpose and during that, accused Atul Arora introduced him with accused Amit Kumar, who told him that he is developing a project in the name and style of "LUXURIO SUKH PLAZA" on Ludhiana-Chandigarh Highway, Bhago Majra Road, near Toll Plaza, SAS Nagar, where he alongwith his sister are carving numerous booths of various sizes. Both the accused namely Atul Arora and Amit Kumar convinced him that if he would invest in the above said project, then he will get huge returns on his investment within one year. They both allured him that after one year, the price of the booth will increase more than three times so its best time to make investment in the project. He fell into their trap. Both the accused further introduced him to Madhu Gupta, who too gave him assurance that his investments are safe. She too told him that she has all permissions of the project from the competent authorities and project is RERA approved. He believed them and he paid them an amount of Rs.20,00,000/- to them on 07.07.2023 at Mohali. An agreement to sell was also reduced into writing and with mutual consent and last date of registration sale deed was fixed on or before 31.03.2024. He invested huge amount



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with them with a belief that they are acting fairly with him and he has invested his hard earned money in Govt. approved project. In the month of March 2024, he visited the project-site and found that work on site was in progress so he requested all the accused to execute sale deed on time. He arranged the remaining amount for the execution of sale deed. On 31.03.2024, he reached the office of Sub Registrar with cheque of remaining amount but unfortunately none of the accused came forward to execute the sale deed in his favour. He tried to contact all of the accused persons but they all did not attend his calls. With great hardship, he succeeded in locating accused Atul Arora. Initially accused Atul started giving him false excuses so he felt something fishy then he warned him that in case he will not call both accused Amit and Madhu, then under forceful circumstances he has to approach the police and he will file criminal complaint against all of them. On his persuasion, accused Atul called both accused Amit and Madhu and they both agreed to meet him. On 01.04.2024, when nobody met him then he reported the matter to the Station House Officer, who called all the accused in his office and during verification it came to his knowledge that all accused sold his booths to third party without his knowledge & consent. All accused admitted their crime and they all agreed to return his hard earned money with profits. Accused Amit in presence of accused Madhu and accused Atul issued him two cheques amounting to Rs.30,50,000/- and they also signed a compromise where they admitted their guilt. When he presented both cheque to his bank, then to his surprise both cheques were dishonored by the bank of the accused. He again contacted accused Atul who instead of listening his requests started abusing him. He also gave him threat that in case he or any of his family member again approach him then he will eliminate him and his entire family. Accused Amit and accused Madhu are not traceable. All the accused has played a well planned fraud of Rs.30,50,000/- with him and now they threatening him and trying to escape from India.”



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6. Learned counsel for the petitioner in the asking for the relief (supra), submits that the petitioner has no connection whatsoever, with the Luxurio Sukh Plaza and infact the petitioner was living at her matrimonial house and she has not participated in any of these business transaction, with her brother Amit Kumar Gupta. It is further submitted that the petitioner has clean antecedents. He also submits that infact the petitioner, after her marriage, has been residing at her matrimonial house since 4.2.2024 and she is running the business of readymade garments/cosmetic and toys. He in addition submits that the complainant in the last week of March 2024, came at her parental home, when she was present in the house and started creating ruckus and the petitioner after coming out of her parental house, stopped the complainant and invited him to come inside the house and to talk in an amicable manner and because of this reason, the petitioner has been nominated in the instant FIR. Finally, he submits that infact the brother of the petitioner has already returned and amount of Rs.14,00,000/- to the complainant, for which he has placed reliance upon Annexure A-1, which is the photocopy of the voucher, which according to the petitioner carries the signatures of the complainant.

7. The learned State counsel assisted by the learned counsel for the complainant, opposed the grant of anticipatory bail to the present petitioner and submit that it was the present petitioner, who also gave assurance to the complainant, that his investments are safe and she represented incorrectly that they have all the permissions of the competent authority to sell the disputed land/booths and the project is RERA approved and on the assurance given by



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the present petitioner, the complainant invested a huge amount. They further submit that even the cheques, which were subsequently dishonoured in order to discharge their liability, were given by Amit Gupta in the presence of the present petitioner and the present petitioner also signed the compromise where they admitted their guilt.

8. This Court has considered the rival submissions made by the learned counsel for the parties concerned and is of the view that the instant petition deserves to be dismissed for the reasons hereinafter extracted:-

i) During investigation, it transpired that the petitioner alongwith her brother Amit Gupta and co-accused Atul Arora had misrepresented to the complainant that Luxurio Sukh Plaza project, is their own project and also created a forged agreement. Further, it is transpired during enquiry that Amit Gupta had represented himself as the proprietor of Gunjan Land Developers, however, the forged agreement to sell was signed by Madhu Gupta (present petitioner), as the proprietor, who had connived with the co-accused;

ii) During investigation, the offences under Sections 465, 468, 471 IPC, were also found to be made out and accordingly the same were added in the instant FIR;

iii) The petitioner alongwith co-accused represented themselves to be in association with Luxurio Sukh Plaza, however, they are not found to be in association with this project, nor have any authority to execute any agreement on behalf of the abovesaid project.

iv) Further the cheques which were given by the co-accused to discharge the liability, were also dishonoured and infact the petitioner alongwith co-accused, have worn a web to



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induce the complainant to part with heavy amount claiming themselves to be the authorized representatives of the Luxurio Sukh Plaza project and thereafter, entered into an agreement without any authority and;

v) Though the petitioner has claimed that she has clean antecedents, however, as per the reply filed by the State, she is involved in three other cases, the details of which read as under:-

“I. FIR No. 152 dated 11.06.2024 u/s 406, 420, 465, 468, 471 IPC, PS Sadar Kharar, District SAS Nagar.

II. FIR No. 158 dated 18.06.2024 u/s 406, 420, 120-B IPC, PS Sadar Kharar, District SAS Nagar.

III. FIR No. 189 dated 13.07.2024 u/s 420,465,468,471 IPC, PS Sadar Kharar, District SAS Nagar.”

9. In view of the above facts and circumstances and considering the antecedents, specific role of the petitioner and the gravity of the offence, this Court is not inclined to grant the extra ordinary relief of anticipatory bail to the petitioner.

10. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only and the observations made hereinabove shall have no bearing upon the investigation or the trial.

11. All pending application(s) stand disposed of accordingly.

September 09, 2024
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(KULDEEP TIWARI)
JUDGE

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