



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.41815 of 2024
Date of decision: 25.09.2024

RAJ KUMAR

.... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Vineet Chaudhary, Advocate for
Mr. Munish Behl, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (oral)

1. The present petition has been filed by the petitioner for grant of anticipatory bail in case FIR No.420 dated 29.06.2022 registered under Sections 406, 420, 506 and 509 of IPC at Police Station Gharaunda, District Karnal.

2. Vide order dated 29.08.2024, passed by this Court, the petitioner was granted interim bail and was directed to join investigation. Order dated 29.08.2024, passed by this Court, reads as under:

“The present petition has been filed by the petitioner for grant of anticipatory bail in case arising out of FIR No.420 dated 29.06.2022 registered under Sections 406, 420, 506 and 509 of IPC at Police Station Gharaunda, District Karnal on the basis of written complaint filed by the complainant- Rajo alleging therein that her son-Sandeep Kumar was owner of some land in



Gharaunda. The present petitioner in connivance with co-accused Raj Kumar had got the sale deed registered qua the said land by exercising fraud upon her son. Thereafter, the petitioner and co-accused sold this land to some other persons. However, no sale consideration amount was actually given to them and she herself and her son are in possession of the said land. She further alleged that now the petitioner along with co-accused went there to take illegal possession of her land and had been hurling abuses to them as well as extended threats to them. Therefore, she prayed for taking penal action against them. After registration of the FIR, investigation is underway. Apprehending his arrest, the petitioner had moved an application for grant of pre arrest bail which had been dismissed by learned Additional Sessions Judge, Karnal vide order dated 13.08.2024.

It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. In fact, Sandeep Kumar son of the complainant/respondent No.2 used to take advance money from the petitioner as well as the co-accused. As on 01.08.2018 an amount of ₹14,30,000/- was payable by her son to co-accused Chander Prakash and in lieu thereof, Sandeep Kumar had executed a registered sale deed in favour of co-accused Chander Prakash. He had again taken an amount of ₹1,83,000/- from co-accused Chander Prakash on 02.08.2018 and as on 01.08.2019, an amount of ₹ 21,00,000/- was payable by Sandeep Kumar to Chander Prakash. He had sworn an affidavit



in favour of co-accused Chander Prakash thereby, undertaking that if he failed to returned the amount taken as advance from co-accused Chander Prakash then the later would have the right to take possession of the land owned by him. It is submitted that since, Sandeep Kumar failed to pay the advance money of ₹ 21,00,000/-, therefore, another sale deed dated 09.09.2019 had been executed by Sandeep Kumar in favour of the present petitioner who is paternal uncle of Chander Prakash. However, since without showing the sale consideration amount, no sale deed could be executed as such with joint consent of Sandeep Kumar, the co-accused Chander Prakash as well as the petitioner, in the sale deed executed in favour of the petitioner the sale consideration amount was stated to have been paid through cheque though in fact, no cheque was handed over to the Sandeep Kumar as the sale deed was executed to secure the amount advanced to him. It is alleged that the respondent No.2-complaint and her son Sandeep Kumar have now become dishonest and that is why they have lodged a false FIR against them.

It is further submitted that since accused Sandeep Kumar failed to return the amount due towards the petitioner, therefore, on finding no other way, the petitioner was compelled to further sell the land qua which sale deed was executed by Sandeep Kumar in his favour. In the meanwhile, the complainant/respondent No.2 and Sandeep Kumar had taken illegal possession of the land which was subject matter of sale



deed and had filed a suit for declaration to mislead the Court. The sale deed in favour of the petitioner had been executed for the purpose of security of amount of ₹21 lacs taken by him. Contradictory pleas had been taken in the FIR and in the civil suit filed by the son of the complainant/respondent No.2. The custodial interrogation of the petitioner is not required. He is ready to join the investigation. Civil litigation is pending between the parties, the dispute is of civil nature. The complainant who is not the owner of the land has even otherwise no locus standi to lodge complaint against the petitioner and co-accused. His custodial interrogation is not required. No recovery is to be effect from him. The case is based on documentary evidence, therefore, it is argued that the petition deserves to be allowed.

Notice of motion.

Learned State counsel who has appeared on advance notice of the petition, seeks time to file status report in the matter.

At this stage, Ms. Binayjeet Sheoran Virk, Advocate appeared and has filed her vakalanama on behalf of the complainant. The same is taken on record. She seeks time to file reply.

Adjourned to 25.09.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall



release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C. ”

3. Learned State counsel has submitted that though the petitioner has joined the investigation on 29.08.2024, however he has not co-operated with the investigating agency and no part of money as given by the complainant had been recovered by him. It is well settled proposition of law that the criminal law process, especially while deciding applications for bail, should not be used for coercion or recovery of money and rather it should be based on merits of the case. The decisions in bail applications should not be made on the nature of accusation, severity of potential punishment and likelihood of an accused absconding. Reference in this regard can be made in ***Dilip Singh vs. State of Madhya Pradesh and another, 2021(R) RCR (Criminal) 585*** wherein, it was observed by this Court that a criminal Court exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as recovery agent to realize dues of complainant without there being any trial. Further reliance can also be made to ***Manoj Kumar Sood and Another vs. State of Jharkhand, Special Leave to Appeal (Crl.) NO.1274 of 2021 decided on 19.03.2021*** wherein, it was observed that disputed dues cannot be recovered in criminal proceedings.

4. In view of this position of law, the petitioner cannot be denied bail only because of the fact that the disputed money has not been recovered by him. In my considered opinion, no useful purpose would be served by detaining the petitioner in custody. Hence, the present petition is allowed and

order dated 29.08.2024 granting interim bail to the petitioner is made absolute, subject to compliance of terms and conditions requisite for grant of anticipatory bail.

25.09.2024

Jyoti-IV

(MANISHA BATRA)

JUDGE

Whether speaking/reasoned:

Whether reportable :

Yes/No.

Yes/No