



CRM-M-42508-2024

1

207

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42508-2024  
Date of Decision : 17.12.2024

Mohammad Aslam

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Mr. Ravi Malik, Advocate  
for the petitioner.

Mr. Gaurav Bansal, DAG Haryana

Dr. Kirandeep Kaur, Advocate  
for the complainant

**KIRTI SINGH, J.(Oral)**

1. This is the second petition filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case FIR No.220 dated 12.06.2024 registered under Sections 406, 420 IPC at Police Station Faridabad Central, District Faridabad.
2. The contents of the above-mentioned FIR are reproduced herein below :-

*“To, SHO, PS Palla, District Faridabad. Application regarding fake GPA/power of attorney, a case should be registered against 1. Aslam S/o Ilyas 2. Ilyas (father of Aslam) 3. Umar S/o Ilyas R/o B-38, Kanchan Kunj, Madanpur Khadar, Part-II, New Delhi-110076. Sir, it is requested that I, the applicant Parvez S/o Abdul Kapoor Khan, R/o A-12, Near Shiv Mandir, Old Jasola, Sarita Vihar South Delhi-110076 at present am a permanent resident of H.No. 1143A, Sector-*



29, Faridabad and submits as follows, That 1. That the accused Aslam, Umar and their father Ilyas, who are my relatives and they are running a company in the name of M/s BERNARD INFRASTRUCTURE PVT. LTD. ILYAS R/O B-38, Kanchan Kunj, Madanpur Khadar, Part-2 News Delhi-76. They told us about a land deal and said that the land is situated at Dhankor, Noida, if you and I together buy this land, we will get a lot of profit. On this, I agreed to their talks and agreed to buy the land and I gave Rs 41,00,000/- in cash to the accused in Faridabad to buy the said land. After a few days, when we asked him to get the registration done, he started procrastinating, then we went to his house several times and inquired about it, but they again started procrastinating us. Then we gathered the Panchayat in which the respectable persons Mohsin, Abdul Hameed, Javed, Tajudin and Changez were present. They told about some of their plots at Basantpur, Tehsil and District Faridabad. They told that they do not have money right now but i can get three of my plots transferred to your name, that the land measuring 215 sq yds, whose Khewat no. 42/35, Khatoni No. 52/49, Khewat No. 42/35, Khatoni No. 50/47, Khasra No. 127,129, Khewat No. 44, Khatoni No. 61/58, Khasra No. 143. Khatoni No. 62/60, Khasra No. 144, Khatoni No. 63/62 Khatoni No. 64/61, Khasra No. 142. Khatoni No 65/62 Khasra No. 137, 138, 139, which was transferred in the name of Mohsin Khan Sio Yusuf Khan Rio H. no. 145. Saheen Bagh, Fazal Enclave, Part 1. Jamia Nagar, Okhla. New Delhi and 80 square yards in the name of Tajudin Sio Abdul Wahab N-28, Abdul Fazal Enclave Delhi in land bearing Khewat no. 42/35, Khatoni No 52/49. Khewat No 42/35, Khatoni No. 50/47, Khasra No. 127 129. Khewat No. 44. Khatoni No. 61/58, Khasra No. 143, Khatoni No. 62/60, Khasra No. 144, Khatoni No 63/2 Khatoni No 64/61, Khasra No. 142, Khatoni No. 65/82, Khasra No. 137, 138, 139total area 80 sq yard, third plot 100 sq yard was transferred in my name, land measuring Khewat no 42/35, Khatoni No. 52/49, Khewat No. 42/35, Khatoni No. 50/47, Khasra No. 127,129, Khewat No. 44, Khatoni No. 61/58, Khasra No.



*143, Khatoni No. 62/60, Khasra No. 144, Khatoni No. 63/62, Khatoni No. 64/61, Khasra No 142, Khatoni No. 65/62, Khasra No. 137, 138, 139 situated at Basantpur, District Faridabad, by executing full payment agreement and said that I cannot transfer all the plot in the name of one person, hence I am transferring all the three separately. When I will return the money of Parvez then my plot be return to me. He stated this to applicant, Mohsin and Tajudin. After many days, we kept on visiting them, then I told Tajudin and Mohsin that Aslam is not paying my money. You get all these plots transferred in my name and give me possession, then when we went to the three plots, then landlords told us that Aslam had nothing here. After that, on 29.02.2024, when we went to the Revenue Department and got the documents written in the said agreement regarding Khewat. Khatoni, Khasra etc., we found that the said three plots were not in the name of Aslam and were in the name of someone else. That Aslam had prepared fake documents in his name and given me a fake full payment agreement and a fake power of attorney, whereas the said plots were in the name of someone else. He had already cheated us and extorted Rs 41 lakh from us and now he has cheated us by making fake agreement full payment. 2. That the said three accuseds have deliberately conspired among themselves and committed the above fraud with me. 3. That when I talked to the accused about the said fraud, they threatened that if you talk to me again about this, they will kill me, we will not give your money and land. Do whatever is possible to you. Therefore, I request you to register a case against the said accuseds and take the strictest legal action. My money should be returned to me. The life and property of the applicant should be protected.”*

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and the dispute is civil in nature and no

**CRM-M-42508-2024****4**

criminal liability can be fastened upon the petitioner. The petitioner is involved in one other FIR.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel while placing reliance upon the status report dated 17.09.2024 submits that during investigation, statement of complainant Parvez Khan was recorded wherein he stated that in the year 2016 he gave a sum of Rs. 41 lacs to the petitioner and when he asked the petitioner to return his money, the petitioner kept postponing and avoiding on one pretext or another. Thereafter, Panchayats were convened to resolve the matter and as a part of settlement it was agreed that three plots belonging to the petitioner will be transferred in the name of three persons, which were supposed to be transferred back to the petitioner in case of payment. In this regard, the petitioner executed three GPAs, agreement to sell and possession letter, out of which one was executed in favou of the complainant. During the course of investigation, report of the land in question was obtained from the concerned Patwari and other record was also obtained, after perusing the record it was found that the petitioner is not the owner of the land in question and he fraudulently entered into the above stated agreements by representing himself as owner. He submits that disputed amount is yet to be recovered and custodial interrogation of the petitioner is required to find the other persons, who are in nexus with the petitioner. He further submits that the petitioner is habitual offender as one more FIR No.211 dated 05.06.2022, under Sections 420, 34 IPC is registered in police station Shaheen Bagh, New Delhi, and the same is still under investigation.

Learned State counsel submits that earlier the petitioner filed CRM-M No. 36158



withdrawn vide order dated 21.08.2024 with liberty to file fresh one which better particulars.

5. Heard the rival submissions made by learned counsel for the parties.
6. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr. PC is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest*



*and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”*

7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. In ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon’ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

*“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”*

9. There are serious allegations levelled against the petitioner. As per the status report dated 17.09.2024, the petitioner executed three agreements with regard to three different lands by fraudulently representing himself as the owner (duping the complainant for a sum of Rs. 41 lacs) in connivance with others. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

10. The petition is dismissed.

11. Needless to mention that the observations made hereinabove shall not



CRM-M-42508-2024

be construed as an expression of opinion on the merits of the case.

12. Pending application(s), if any, also stands disposed of accordingly.

17.12.2024

reena

(KIRTI SINGH)  
JUDGE

*Whether speaking/reasoned? Yes/No*  
*Whether reportable? Yes/No*