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

CRM-M-44226-2024

Date of Decision: September 06, 2024

RAJWINDER KAUR**....Petitioner(s)****VERSUS****STATE OF PUNJAB****....Respondent(s)****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. P.S. Dhaliwal, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)**1. Relief Sought**

The jurisdiction of this Court under Section 482 Bhartiya Nagrik Suraksha Sanhita, 2023, has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.109 dated 17.08.2024 under Sections 406, 420, 120-B of IPC, 1860, registered at Police Station City Samana, District Patiala.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

'We Baljinder Singh son of Mohan Singh son of Gurcharan Singh and Mandeep Kaur wife of Mohan Singh son of Gurcharan Singh are residents of Darti Niwas, Samana, Tehsil Samana, District Patiala. That one shop and plot situated in the area of Malkana, Tehsil Samana, District Patiala bearing Khewat/Khatoni No.769/968



Khasra No.26//20 (4-17) measuring 4 Kanal 17 Marla which is 5/97 share and measuring 5 Marla (Baljinder Singh 3/4/97 share, Mohan Singh 1-1/4/97 share) and 15 feet x 18 feet as per Jamabandi for the year 2020-21 and according to the sale deed No.2236 dated 12.01.1994. Mohan Singh son of Gurcharan Singh is owner and who is now since been expired and both are LRs. Irrespective of this there is no other LRs. Accordingly we both are in possession of above 5 Marla and 15 feet x 18 feet. Now we have need of money, therefore we are selling the above area wherein one shop has been constructed and remaining is plot made an agreement to sell including all rights of passage, lights, electricity fittings along with connections and constructions, roof with sewerage connection total rights in lieu of Rs.50 lacs in favour of Dilbag Singh son of Hazoora Singh son of Kartar Singh r/o Aggarwal Colony, Samana, Tehsil Samana and received Rs.25 lacs in cash as earnest money and the remaining amount will be received on dated 20.05.2024 at the time of executing the sale deed and possession has been handed over. If the purchaser did not execute the sale deed upto that date then by forfeiting the earnest money agreement will be deemed to be cancelled and possession will be taken back. If we could not execute the sale deed then the purchaser can get the sale deed executed through court and we will be responsible for the expenses and compensation. The purchaser is also entitled to receive the double of the earnest money and the purchaser can execute the sale deed in favour of any other person we have no objection. If there is any defect in the ownership we will be responsible for the same. From the date of execution of sale deed we will be bound to sanction the mutation of the inheritance of Mohan Singh and also cleared the electricity bill, sewerage bill. Except this agreement we have not made any agreement with any other person nor will made any agreement with any other persons and all our legal heirs



will be bound with this agreement to sell. We have got written this agreement for ready reference. Dated 04.04.2024. Place Samana.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case wherein the dispute is civil in nature and is being given a criminal colour by the complainant. The entire dispute is pertaining to a contractual obligation and no criminal liability can be fastened upon him.

On behalf of the State

Learned State Counsel appearing on advance notice, on instructions from the Investigating Officer is not in a position to controvert the above stated pleading of learned counsel for the petitioner and also could not oppose the prayer for the grant of anticipatory bail.

On behalf of the complainant

Mr. Karnesh Verma, Advocate, puts in appearance on behalf of complainant and has filed his Power of Attorney in Court, which is taken on record. He submits that the petitioner along with her mother and brother has defrauded the complainant with Rs.25 lakhs. A civil litigation among the parties is also pending which has been moved by the petitioner for declaration to the effect that the petitioner has a right over the property and therefore, has in fact made a counter allegation against the present complainant of defrauding.



4. **Analysis**

In view of above, the present petition seems to be an after thought giving civil liability a criminal responsibility. In the light of these facts, the petitioner is not sought to be required for any custodial interrogation as has been submitted by the State as well, hence, this Court finds no reason to deny the concession of anticipatory bail to the petitioner.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to his joining the investigation and reporting to the Investigating Officer concerned within a period of one week from today, upon furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

'When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;



(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

06.09.2024
Sangeeta

<i>Whether reasoned/speaking:</i>	<i>Yes/No</i>
<i>Whether reportable:</i>	<i>Yes/No</i>