



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

**CRM-M-46610-2023 (O&M)
Date of decision: 08.05.2024**

Napinder Singh @ Narpinder Singh @ Narender Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ajay Chaudhary, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

Mr. Naveen Chopra, Advocate for the complainant
(applicant/proposed respondent No.2 in CRM-3302-2024).

MAHABIR SINGH SINDHU, J.

CRM-3302-2024

Application for impleading the applicant/complainant-Babli
Rani as party respondent No.2.

It transpires that notice of the application has already been
issued to the non-applicant/respondent, vide order dated 29.01.2024.

2024:PHHC:064018



Learned Counsel for the petitioner as well as learned State Counsel submit that they have no objection to the present application.

In view of above and for the reasons mentioned in the application, the same is allowed subject to all just exceptions. Applicant/complainant-Babli Rani, is ordered to be impleaded as respondent No.2.

Amended Memo of Parties, annexed with the application, be tagged at appropriate place.

Registry to do the needful.

MAIN CASE

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.138 dated 19.08.2023, under Sections 420, 406 & 120-B of the Indian Penal Code, 1860, registered at Police Station Siwan, District Kaithal.

(2) Above FIR was registered on the basis of statement made by complainant-Babli Rani with the allegations that petitioner in connivance with co-accused cheated her to the tune of about Rs.70 Lakh by selling land, which was already subject matter of litigation.

(3) Contends that petitioner was granted interim bail by the Coordinate Bench on 20.09.2023 and in pursuance thereof, he has already joined the investigation. Also contends that police has recovered the necessary material(s); thus, custodial interrogation of the petitioner is not required at this stage.

2024:PHHC:064018



(4) Learned State Counsel, after getting instructions from ASI Balraj Singh, acknowledged the above factual position and submits that as on today, custodial interrogation of the petitioner is not required.

(5) *Per contra*, learned Counsel for respondent No.2/complainant vehemently opposed the prayer on the premise that petitioner has cheated an illiterate lady and he was well aware about the pendency of Civil Suit at Kaithal. Also submits that now Suit stands decreed and the earlier decree dated 11.09.1975, which was obtained by playing a fraud, has been nullified; thus, petitioner is not entitled for pre-arrest bail.

(6) Heard learned Counsel for the parties and perused the paper-book.

(7) It is not in dispute that petitioner purchased some land vide Sale Deeds dated 03.02.2012 & 04.05.2012 and after a period of three years, part thereof was sold to the complainant by way of Sale Deed No.4872 dated 04.03.2015. Of course, the decree dated 11.09.1975 has been set aside by learned trial Court; but it is acknowledged by both sides that an appeal against the judgment and decree dated 19.03.2016 is still pending and complainant is also a party to the appeal.

(8) Concededly, petitioner was granted interim bail by the Coordinate Bench on 20.09.2023 and the order reads as under:-

“Learned counsel for the petitioner submitted that it is a case where the allegations of fraud qua the petitioner was not made out in view of the fact that the petitioner was the owner of the land and the civil suit was filed by one Mahavir against the

2024:PHHC:064018



gram panchayat and other defendants on 02.04.2012/17.09.2013, which was decreed in the year 2016 and the present land was sold to the complainant in the year 2015 i.e. before the decree of the said civil suit but the petitioner was not even aware of the pendency of the aforesaid civil suit and therefore the element of fraud is absent in the present case.

Notice of motion.

Mr. Naveen Kumar Sheoran, DAG, Haryana, accepts notice on behalf of the respondent-State and has prayed for some time to seek instructions in the present case.

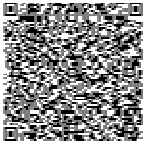
Adjourned to 21.12.2023.

In the meantime, the petitioner is directed to join the investigation and to co-operate fully with the investigation process and on his doing so, the petitioner be released on interim bail, subject to his furnishing personal bonds and surety to the satisfaction of the Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

(9) It is acknowledged by learned State Counsel on instructions from ASI Balraj Singh that in pursuance of the above order, petitioner has joined investigation and as on today, his custodial interrogation is not required.

(10) Since matter is pending before learned Appellate Court and petitioner has already joined the investigation; thus, his custodial interrogation would not serve any purpose.

2024:PHHC:064018



- (11) Consequently, present petition is allowed; interim order dated 20.09.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
- (12) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (13) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- (14) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.
- (15) Pending application(s), if any, shall also stand disposed off.

8th May, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes