

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45582-2024
Reserved on: 11.11.2024
Pronounced on: 13.11.2024

Komal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Vasundhra Asija, Advocate for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
213	26.08.2024	Dadri City, District Charkhi Dadri	120-B/420/467/468/471 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. The petitioner has not disclosed criminal antecedents; however, the representing counsel states on instructions that the accused has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That brief facts in the matter are that a case FIR No. 213 dated 26.08.2024 under sections 420/467/468/471/120-B IPC PS City Dadri was registered on the complaint of Pinki daughter of Hoshiar Singh resident of village Kheri Batter district Charkhi Dadri stating inter- alia therein that they have land inside Lal Dora in village Kheri Batter and she and her mother Sunita are co-sharer of the same. Her father Hoshiar Singh has expired on 22.12.2021. That land measuring 10 Kanal and house of her dead father was sold by petitioner/accused Komal and her husband Ravinder @ Mohit through two sale-deeds, for which payment of Rs. 3,80,000/- was received through cheque dated 05.02.2024 from one Sharmila wife of Satyawar for 2 Kanal 1.82 Marla land and land measuring 7 Kanal 19 Marla was sold to Parmila, Sarpanch of the village, for which payment was received through cheque dated 18.09.2023. In this regard accused/petitioner Komal stood as attesting-witness in release-deed No.6449 dated 5.2.2024 executed in favour of her husband Ravinder to succeed the ownership exclusively from her father-in-law Hoshiyar Singh, who had died on 22.12.2021 leaving behind widow Sunita @

Guddi, daughter Pinki (complainants) and accused Ravinder as son. The complainant further stated that her deceased father Hoshiyar Singh was fraudulently and deceitfully shown as alive to cheat the complainant and her mother and entire agriculture land and residential house running in the name of deceased Hoshiyar Singh were fraudulently usurped and were sold subsequently to some third persons by petitioner/accused Komal and her husband Ravinder.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“6. That role of the petitioner is that she in collusion with her husband Ravinder, despite having knowledge that her father-in-law Hoshiar Singh has already expired two years back i.e. on 22.11.2021, participated in the sinister deal and stood as a witness in 02 transfer deeds of land when some bogus person was impersonating himself as Hoshiyar Singh at the time of execution of these transfer-deeds. By way of these deeds husband of the petitioner namely Ravinder got transferred land measuring 4K-2M-025 vide deed No. 3264 dated 28.08.2023 and accused/petitioner Komal stood as witness to this transfer deed. Further, vide second transfer deed No. 6449 dated 05.02.2024, land measuring 2K-1M-8S was transferred from the name of Hoshiar Singh to the name of accused Ravinder (Husband of the petitioner) and the petitioner Komal was witness in the said deed also.

8. That enough documentary evidence against the petitioner is available with the investigating agency in shape of death certificate of Hoshiar Singh and, forged sale deed in which the petitioner stood as witness. The petitioner was having due knowledge that her father-in-law Hoshiar Singh has expired two years back i.e. on 22.11.2021, despite that she stood as witness in 02 forge sale deeds in which some other person impersonating himself as Hoshiar Singh executed the same in the name of her husband Ravinder.”

7. The petitioner is pregnant and in her seventh month, corroborated by her medical record.

8. In *Naina v. State of Punjab*, 2024:PHHC:067889, this Court observed as under:

[55]. Pregnant women and lactating mothers need bail, not jail. Courts must restore women's due and sacrosanct freedom in motherhood *pro tanto*. Even when the offenses are highly grave and accusations very severe, they shall deserve temporary bail or suspension of the sentence, extending to a year after delivery. Further, those who stand convicted and their appeals closed also deserve similar relief, in whatever camouflage it may come.

[56]. Giving birth to a child in jail and a child taking birth in jail could be such a blot in one's life story that social detestation and hatred might follow, potentially creating an everlasting detrimental impact on the mind of the child, whenever questioned about birth. Human rights in the administration of justice are to ensure that a child should not be burdened and prejudiced, inheriting the legal status of their mother in jail.

[57]. After legally analyzing the facts and probable consequences, this court is of the considered opinion that in the more significant interests of Equity and Justice, which stand on the bedrock of compassion, the court is inclined to grant interim bail to the petitioner.

9. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, petitioner is a woman and is in seventh month of pregnancy, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

11. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the petitioner's complying with the following terms.

15. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27

of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

16. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

17. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

18. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

19. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

20. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

13.11.2024
Jyoti Sharma

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: No.