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

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**CRM-M No.54533 of 2023
Date of Decision: 24.09.2024**

Gurmit Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Munish Raj Chaudhary, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

Mr. Vivek Singla, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition has been made by the petitioner seeking benefit of pre arrest bail in case arising out of FIR No.437 dated 13.09.2023 registered under Section 420 of IPC at Police Station City Barnala, District Barnala, on the basis of a written complaint filed by the complainant Gurpreet Singh alleging therein that on 18.05.2021, the petitioner-accused Gurmit Kaur had entered into an agreement to sell the property owned and possessed by her, for sum of Rs.13 lakhs. An amount of Rs.11 lakhs was received by her as earnest money. She got lodged a DDR regarding loss of her original sale deed and then executed a sale

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deed bearing No.4420 dated 16.02.2023 in favour of one Poonam Devi in respect of the same property which was agreed to be sold by her to the complainant. While alleging that the petitioner had induced him to enter into an agreement to sell her property with an intention to cause wrongful loss to the complainant by inducing him to make payment of a sum of Rs.11 lakhs and had duped him of this much amount, he prayed for taking action in the matter. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending her arrest, the petitioner had moved an application for grant of anticipatory bail which was dismissed by the Court of learned Sessions Judge, Barnala vide order dated 21.10.2023.

2. It has been argued by learned counsel for the petitioner that she has been falsely implicated in this case. True and material facts have been concealed by the complainant as the petitioner had agreed to sell her property for a sum of Rs.10 lakhs out of which only an amount of Rs.5 lakhs had been received as earnest money. The sale deed had to be executed on or before 22.04.2019. It was the complainant who was not able to perform his part of the contract and had requested the petitioner to grant some more time to him. The date was extended as per consent of both the parties but since the complainant even then failed to pay the balance sale consideration amount after seeking several extensions in time then the petitioner had executed sale deed in favour of some other person. The complainant had misused the signatures of the petitioner and had got prepared a fresh agreement to sell on 18.05.2021 showing payment of an amount of Rs.11 lakhs as earnest money to the petitioner whereas no such agreement had

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been executed by her. The dispute between the parties is of civil nature. The complainant has already filed a suit for specific performance of agreement. The custodial interrogation of the petitioner is not required. No useful purpose would be served by detaining her in custody. No recovery is to be effected from her. She has already paid an amount of Rs.2 lakhs to the complainant by way of demand draft. Therefore, it is urged that the petition deserves to be allowed.

3. Status report has been filed. It is submitted therein and learned State counsel assisted by learned counsel for the complainant has argued that the petitioner-accused induced the complainant to enter into an agreement to sell her property to him for sale consideration amount of Rs.10 lakhs which was later on enhanced to Rs.13 lakhs. She had received an amount of Rs.11 lakhs but did not display her readiness and willingness to execute sale deed. She got lodged a false report regarding loss of the original sale deed executed in his favour and then sold the property in question to one Poonam Devi. The allegations prima facie make out a case for commission for offence of cheating as against the petitioner. Her custodial interrogation is must for conducting thorough investigation in the matter. She had herself stated before this Court that she was ready to return an amount of Rs.7 lakhs received by her as earnest money but paid only a sum of Rs.2 lakhs out of same and this fact also showed her dishonest intention. Accordingly, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the parties at considerable length and have gone through the record.

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5. Admittedly, the petitioner had entered into an agreement to sell her property to the complainant. As per the allegations, she received an amount of Rs.11 lakhs from the complainant and enhanced the sale consideration amount originally agreed to be paid and after seeking extension of time to execute sale deed, she had sold her property to some third person with an intention to cheat the complainant and cause wrongful loss of huge amount of money to him. A perusal of record reveals that as on 31.10.2023, learned counsel for the petitioner had stated before this Court that she was ready to return an amount of Rs.7 lakhs but so far she has returned only a sum of Rs.2 lakhs to the complainant. The allegations in the FIR make out a prima facie case for commission of offence punishable under Section 420 of IPC as against the petitioner. For conducting thorough and proper investigation in the matter, the custodial interrogation of the petitioner is must. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

24.09.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No