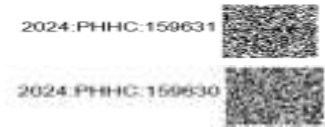


CRM-M-49824-2024 (O&M) -1-
CRM-M-53940-2024 (O&M)



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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-49824-2024(O&M)
CRM-M-53940-2024 (O&M)
Date of Decision :29.11.2024

1.

CRM-M-49824-2024(O&M)

UTSAV SINGAL

... Petitioner
- Versus
- STATE OF PUNJAB

... Respondent
2.
- CRM-M-53940-2024 (O&M)
- NITIKA AGGARWAL
- ... Petitioner
- Versus
- STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. R.S. Rai, Senior Advocate with
 Mr. Preetinder Singh Ahluwalia, Mr.Anurag Arora,
 Mr. Ribhav Singla and Mr. Sushant Kareer,
 Advocates for the petitioners.

 Mr. Ankit Grewal, DAG, Punjab.

 Mr. Sant Pal Singh Sidhu, Advocate for the complainant.

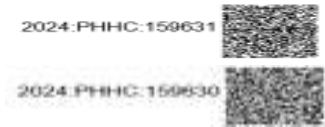
SANJIV BERRY, J. (ORAL)

CRM-46822-2024 in CRM-M-53940-2024

1.

The instant application under Section 528 BNSS is for placing
on record relevant documents as Annexure P-14 and P-15.
2.

Heard.



- 3 The application is allowed, Annexure P-14 and P-15 are taken on record, subject to all just exceptions.
4. Disposed of.

Main cases

1. This order shall dispose of both the above mentioned bail petitions arising out of the same FIR.
2. By way of the instant petitions filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 the petitioners seeks anticipatory bail in case FIR as under:-

FIR No.	Dated	Sections	Police Station
127	18.09.2024	318(4), 329 (3), 62 and 351(2) of BNS	Dakha, District Ludhiana

3. It is, *inter alia* contended by learned Senior counsel, assisted by Mr. P.S. Ahluwalia Advocate for the petitioners that the petitioners have been falsely implicated in this case by the complainant in a bid to transform a purely civil dispute arising out of agreement to sell dated 09.08.2022 into a criminal one in connivance with the police. He contends that petitioner Utsav Singal is not having any criminal antecedents and being Director of Company had entered into an agreement with the firm where the complainant is partner. He contends that on receipt of the sale consideration the proportionate property was sold vide different sale deeds of the area measuring 12 acres of land in favour of the complainant or his assignee's by the Company of the petitioner. He refers to the complaint moved by the complainant dated 10.08.2024 to Deputy Superintendent of Police, Dakha,



who after inquiry into the matter concluded vide report dated 09.09.2024 (Annexure P-5) that the dispute *inter se* parties was found to be of civil in nature. It is pointed out by learned counsels that strangely on an another complaint moved by the complainant on the same facts to the SHO, P.S, Dakha at 9:00 PM on 18.09.2024 without mentioning about the earlier inquiry conducted by DSP Dakha vide report dated 09.09.2024, the concerned SHO promptly registered the FIR at 9:05 pm without considering the fact that DSP, Dakha had already conducted the inquiry holding the matter to be civil in nature. They contend that the matter being civil in nature pertaining to the performance of the agreement (supra), the petitioner had been ready and willing to get the land transferred in favour of the complainant on payment of the balance sale consideration. It was the complainant who could not arrange for money and got the instant FIR registered on flimsy grounds. It is pointed out by learned Senior counsel that in compliance to the order dated 04.10.2024 passed by this Court petitioners have already joined the investigation. He further refers to the order dated 04.10.2024 to say that even the learned counsel appearing on behalf of the complainant had stated to have clear instructions from the complainant that if the petitioner is ready to perform his part of the agreement then the complainant is also ready to perform his part of agreement but despite that nothing was done in the matter by the complainant.

4. Learned counsels for the petitioners further contended that although there was no mention in either of the complaints given by the



complainant to the DSP Dakha and SHO, Police Station Dakha regarding any copies of jamabandi to have been given to him but he has got the offences under Section 336(2) 338, 336(3), 340(2) and 61(2) of BNS incorporated in the instant FIR by handing over xerox copies of jamabandi vide General Diary No. 36 dated 30.09.2024. He contends that the alleged documents were neither part of the agreement nor even supplied by the petitioners which was not even bearing their signatures and they have no concern whatsoever with the said xerox copies of revenue record as has been alleged in the aforesaid General Diary and the police on the basis of such xerox copies, without ascertaining the facts as to whether it was given by the petitioners at any moment or not, have straightway proceeded to incorporate the aforesaid offences. It is further contended that the case put up by the complainant regarding the petitioners having cheated the complainant by giving copies of “Annexure-II : Lay out plan” showing the land which were not owned by him is concerned, he submits that a bare perusal of the impugned agreement would reveal that there is no mention of “Annexure-II : Lay out plan” therein. He contends that photocopy of this document has been created just to harass the petitioners. In this regard they have referred to ‘Term Sheet’ dated 01.06.2023’(Annexure P-15) executed between the company of petitioner as “seller”, the complainant being the “confirming party” and Godrej Projects Development Limited as “buyer” wherein the “Annexure-II : Lay out plan” has been executed with the representatives of Godrej Projects Development Limited who had also signed on the same and the instant “Annexure-II : Lay out plan” is nothing



but a xerox copies thereof, cleverly made by hiding the signatures of the representatives of the Godrej Projects Development Limited. Said “Annexure-II : Lay out plan” being not part of the impugned agreement in question, no liability thereof arises on that basis.

5. It is further pointed out by learned counsel referring to the agreement dated 09.08.2022 that there has been reference to one site plan “Annexure-I” repeatedly therein but there has never been any “Annexure-II : Lay out plan” to be part of such agreement. He further contends that the petitioner being seller had undertaken to complete his title qua the land in question including the land owned by the company or from the land regarding which agreement to sell have been entered into or from the land regarding which further agreements to sell will be entered into by the petitioners company. He reiterates that the petitioner had already executed the different sale deeds in favour of the complainant qua the sale consideration already received for land measuring approximately 12 acres and this aspect that complainant had handed over the said land, was intentionally concealed to be mentioned in the FIR, although the same was duly mentioned in complaint moved to DSP, Dakha. He further submits that even the complainant was not ready with the sale consideration as is evident from the fact that he gave two cheques amounting to ₹2.5 crores each dated 23.12.2022 which however were dishonored on account of ‘payments stopped by the drawer’ vide memo dated 26.12.2022 placed on record, qua which, in fact the petitioner Utsav Singal being the Director of the Company, had filed complaint with the Commissioner of Police vide



Annexure P-4. Since neither “Annexure-II : Lay out plan” nor the alleged hand written fard jamabandi were ever the part of the agreement, so by producing photo copies thereof, no criminal liability qua the petitioner arise either.

6. As regards the petitioner Nitika Aggarwal, it is contended by learned counsel representing her that she is a lady aged about 35 years in advance stage of 8 months pregnancy who has been falsely implicated in this case without any rhyme or reason with an intent to harass in such a medical conditions. He contends that although petitioner is one of the Director in the Company but she was not signatory to such agreement nor she signed on the alleged site plan “Annexure-II : Lay out plan”. It is submitted that version regarding the alleged site plan has been concocted by the complainant later on as there was no such mention either in the complaint given by him to the DSP, Dakha nor to the SHO, PS, Dakha on the basis of which the instant FIR has been registered. It is contended that infact the petitioner as a Director had signed on the “Term Sheet dated 01.06.2023 (Annexure P-15)” executed between the company of the petitioners as ‘seller’, Godrej Projects Development Limited as ‘buyer’ and the complainant as ‘confirming party’ on 01.06.2023 wherein “Annexure-II : Lay out plan” was annexed and signed by the petitioners as well as the complainant along with representative of Godrej Projects Development Limited. It is submitted that the alleged site plan claimed by the police is just a xerox copy of the lay out plan annexed with said “Term Sheet” which has been cleverly been prepared by hiding the signatures of representative of Godrej Projects Development



Limited on the right corner thereof. He had referred to the said 'Term Sheet' Annexure P-15, in this regard.

7. Learned counsel has pointed out that the name of the petitioner Nitika Aggarwal nowhere surfaced in the complaint given by the complainant originally on the basis of which DSP, Dakha made report dated 09.09.2024 regarding the matter being purely of civil nature nor in the complaint given to SHO, PS, Dakha on the basis of which instant FIR was registered and surfaced for the first time on 30.09.2024 vide General Diary No.36 alleging that the petitioner had signed on the aforesaid "Annexure-II : Lay out plan" and also handed over the copy of hand written jamabandi which was allegedly fabricated one. On the cost of repetition he submits that the petitioner has no concern with the copies of the said jamabandis or the alleged lay out plan as mentioned in the General Diary No.36 (Annexure P-2) nor she is signatory thereon, which in other words was never mentioned by the complainant either in the FIR or in the previous complaint given to the DSP, Dakha. The learned counsel further contended that there is no mention of the alleged forgery on the part of the petitioners in either of the aforesaid complaints. It is result of an after thought by the complainant that he handed over xerox copies of the alleged jamabandis and alleged layout plan, on which the police promptly acted believing the complainant version blindly and registered General Diary No.36 dated 30.09.2024 (Annexure P-2) for such offence.

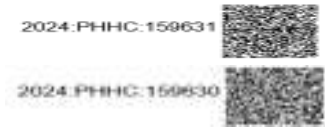
8. It is contended that the petitioners have already joined the investigation in compliance of the orders dated 04.10.2024 and 28.10.2024



respectively and not having any criminal antecedents and considering the above facts and circumstances pray for grant of bail.

9. Per contra, learned State counsel assisted by learned counsel for the complainant with the assistance of Inspector Amritpal Singh, PS, Dakha, Investigating Officer of the case have assailed these arguments opposing the bail to the petitioners. Mr. Varinder Singh, DSP, Dakha had also put in appearance on his own. The learned State counsel on instructions from aforesaid DSP and Investigating Officer has stated that although the petitioners have joined the investigation but their custodial interrogation is required. He has referred to the respective replies given by State qua the petitioners to pray for dismissal of the petition on the ground that petitioner Nitika Aggarwal although stated to have resigned from the post of Director of the Company at the time of joining investigation but has not produced any document in this regard and further she is alleged to have produced the forged jamabandi of the land alongwith signed “Annexure-II : Lay out plan” at the time of sale of land to the complainant and the custodial interrogation of the petitioner is required for making inquiry about the forged jamabandi and to inquire qua her signing the lay out plan.

10. So far as petitioner Utsav Singal is concerned, it is stated by the investigating officer that his custodial interrogation is required as he has failed to consolidate the promised land and provided copies of fabricated jamabandis to the complainant at the time of execution of the agreement and being the primary decision maker of the company his custodial interrogation is required to verify about the forgery of jamabandis committed by him. On



these basis prayer has been made for dismissal of the petitions.

11. Learned counsel for the complainant has vehemently opposed the bail applications by submitting that the petitioners being the Directors of the Company had defrauded the complainant. He submits that the petitioner had executed the agreement to sell dated 09.08.2022 and received the sale consideration but failed to hand over the entire land in terms of the agreement. He further submit that the petitioner had handed over the copies of Fard jamabandi for the year 2015-2016 showing their ownership which in fact was not there and the same were found to be fabricated. Moreover the petitioners had also handed over the copies of Annexure-II lay out plan showing the land owned by them which later was found to be not belonging to them. Hence they have defrauded the complainant and does not deserve concession of bail. However, on query he admitted that the sale deeds for land measuring 12 acres had already been executed by the petitioners in favour of the complainant as per the agreement.

12. After considering the arguments advanced by the learned counsel for the parties and perusing the record, it is observed that during the course of the proceedings following orders were passed in CRM-M- 49824-2024 on 04.10.2024:-

“ XX XX XX XX
By way of present petition filed under Section 482 of
BNSS, thepetitioner seeks anticipatory bail in case FIR
(Annexure P-1) as under: -

FIR No.	Dated	Sections	Police Station
127	18.09.2024	318,(4), 329,(3), 62 and 351(2) of BNS	Dakha, District Ludhiana

2. *Learned counsel for the petitioner, inter alia, contends that the petitioner is innocent and has been falsely implicated in the instant FIR (Annexure P-1). He contends that the dispute in question arising out of the agreement to sell dated 09.08.2022 is basically a civil dispute inter se the parties. He contends that on the complaint being moved by the complainant, Deputy Superintendent of Police Dakha, had conducted inquiry dated 09.09.2024 (Annexure P-5), concluding that the dispute inter se the parties has been found to be of civil in nature. He further contends that in the subsequent application moved by the petitioner to SHO concerned at 9.00 P.M. on 18.09.2024 without mentioning about the earlier inquiry being conducted by Deputy Superintendent of Police, Dakha, the SHO concerned promptly registered the FIR at 09.05 P.M. on the same day without considering the fact that the Deputy Superintendent of Police, Dakha, supervising the said police station, had earlier conducted inquiry holding the matter to be civil in nature. He further contends that as per the agreement, 5 different sale deeds of the land measuring 12 acres have already been registered in favour of the complainant or his assignees. He contends that the remedy available for the petitioner was to file a civil suit and no criminal case on the said allegations arise at all. He submits that he has specific instructions from his client that the petitioner is ready and willing to get transferred the balance land in question in terms of the agreement, on the complainant complying with his part of the agreement. Hence, prayed for grant of anticipatory bail.*

3. *Notice of motion.*

4. *On the asking of the Court, Mr. Adesh Pal Singh, AAG, Punjab, present in Court, accepts notice on behalf of the State-respondent.*

5. *Mr. Vardaan Seth, Advocate, has put in appearance on behalf*



of the complainant and filed memo of appearance to assist the learned State counsel, which is taken on record.

6. Learned Senior counsel for the complainant has stated at bar that he has clear instructions from his client that if the petitioner is ready to perform his part of the agreement then the complainant will also be ready to perform his part of the agreement.

7. The learned Senior counsel for the petitioner as well as the learned Senior counsel appearing on behalf of the complainant have unanimously stated that the parties will perform their respective part as per the agreement qua the balance land.

8. List on 06.11.2024.

9. In the meanwhile, keeping in view the unanimous submissions made by learned Senior counsel representing the petitioner as well as the complainant qua performance of their respective part as per the agreement, the petitioner is hereby directed to join investigation within seven days from today and in the event of his arrest, he is ordered to be released on interimbail on his furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. He shall also abide by conditions as envisaged under Section 482 (2) of BNSS, 2023.”

13. Further, during the course of the proceedings following orders were passed in CRM-M- 53940-2024 on 28.10.2024:-

“XX XX XX XX

2. It is, inter alia, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the petitioner, aged about 35 years, is in advanced stage of pregnancy and has referred to the medical reports in this regard. He contends that



the petitioner was not named in the FIR (supra) registered on 18.09.2024 but has been nominated allegedly on the basis of G.D.No. 036 dated 30.09.2024 (Annexure P-2) as a result of after thought to harass the petitioner. He contends that there is no reference to the alleged map given in the instant FIR nor even any such reference was made in the earlier complaint moved by the complainant to the DSP, Dhaka, (Annexure P-3). He further referred to these documents to submit that even there is no mention of the name of the petitioner therein. He contends that the concerned DSP after conducting inquiry into the matter had reported vide (Annexure P-4), report dated 09.09.2024 that the matter is purely civil in nature and had filed the complaint.

3. Learned counsel for the petitioner further contends that no story qua the alleged map was mentioned in the said complaint nor even in the complaint filed on 18.09.2024, when the FIR was registered. He contends that the petitioner being not a party to the agreement to sell dated 09.08.2022 (Annexure P-5) cannot be supposed to be a signatory of the alleged map. In fact, she had signed on the map annexed as 'Annexure-II; Layout Plan,' on the agreement with the Godrej Projects Development Limited wherein the complainant was also the 'confirming party' and had signed on the same and has placed on record the copy of such agreement dated 01.06.2023. The same is taken on record and marked as Annexure 'A'. He further contends that the petitioner is not signatory of the agreement to sell dated 09.08.2022 on the basis whereof instant FIR had been registered and her name has been wrongly incorporated on the basis of G.D. No.036 without there being any overt act committed by her. He contends that the petitioner being at the advanced stage of pregnancy having no other criminal antecedents is ready to join investigation.



4. *Notice of motion.*

5. *On the asking of the Court, Mr. Adesh Pal Singh, AAG, Punjab, present in Court, accepts notice on behalf of the State-respondent and prays for time to file the status report/reply in the matter.*

6. *Mr. Sant Pal Singh Sidhu, Advocate, has entered appearance on behalf of the complainant and filed his memo of appearance to assist learned State counsel in the matter and prays to file his vakalatnama well before the adjourned dated. He has submitted that the petitioner had been nominated in the DDR (Annexure P-2) as she has signed the layout plan (Annexure 2) and has committed forgery.*

7. *Adjourned to 06.11.2024.*

8. *Needful be done well before the date fixed with an advance copy to the counsel opposite.*

9. *Keeping in view the above facts and circumstances and the submissions and further the fact that the petitioner is in advance stage of pregnancy, the petitioner is hereby directed to join investigation on or before 05.11.2024 and in that event, she is ordered to be released on interim bail on her furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. She shall also abide by conditions as envisaged under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS).”*

14. Admittedly, both the petitioners have joined the investigation in terms of the aforesaid orders.

15. The learned State counsel on instructions from DSP, Dakha and Investigating Officer of the case who are present in Court have sought custodial interrogation of the petitioners mainly on the ground that they had handedover the copies of hand written jamabandi for the year 2015-2016 to



the complainant which were found to be not issued by the competent authority nor the petitioners were found to be the owner of the property mentioned therein and similarly the petitioners had handed over copies of “Annexure-II lay out plan” showing the property to be owned by them which was found to be wrong and for ascertaining this aspect their custodial interrogation is required.

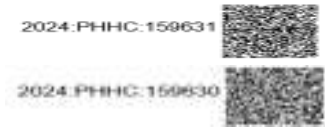
16. The perusal of record in the light of the respective arguments raised by learned counsel for the parties and learned State counsel would reveal that the dispute in the present case primarily revolve around the agreement to sell dated 09.08.2022 signed by petitioner Utsav Singal and complainant. Admittedly petitioner Nitika Aggarwal is not signatory to such agreement. It is also not disputed that out of agreed land, different sale deed for the area around 12 acres have already been executed in favour of the complainant for which the sale consideration has been received by the seller as per the agreement.

17. Learned State counsel on instructions from the concerned Investigating Officer and the DSP, Dakha present in Court has stated that as per the allegations the complainant had handed over only xerox copies of the alleged hand written jamabandis and “Annexure-II lay out plan” and they admitted that the original thereof is not there on the police file. The case put forth by the complainant with regard to hand written jamabandi is that the same were given by the petitioners to him and the same were found to be forged, however it is admitted that there is no mention of said jamabandis in the agreement dated 09.08.2022 nor these photo copies of the documents



bear the signatures of any of the petitioners so as to burden them with the authenticity thereof, in any manner.

18. So far as the copies of “Annexure-II lay out plan” is concerned the learned counsel for the petitioners have placed on record copy of ‘Term Sheet’ dated 01.06.2023 executed between the petitioners through their company as ‘seller’, Godrej Projects Development Limited as ‘buyer’ and the complainant being the “confirming party” wherein they have referred to “Annexure-II lay out plan” annexed thereto. According to him, apart from the signatures of the petitioners and complainant, there were also signatures of representative of ‘buyer’ Godrej Projects Development Limited. It is contended that the reason why original lay out plan has not been produced is that the in fact photo copies of the “Annexure-II lay out plan” annexed with the ‘Term Sheet’ dated 01.06.2023 was prepared by “hiding the signatures of representative of Godrej Projects Development Limited just to implicate the petitioners on such allegations. This aspect could not be controverted by learned State counsel or the counsel representing the complainant and not even by the police officers present in the Court alongwith record. Even this apart, it is worth mentioning that there is no reference to “Annexure-II lay out plan” in the impugned agreement dated 09.08.2022 as there is repeated mention of one site plan ‘Annexure-I’ therein but there is no mention of “Annexure-II lay out plan” therein. Further the perusal of ‘Term Sheet’ aforesaid with which “Annexure-II lay out plan” is annexed and the copy of lay out plan produced by the police strengthen the version given by the learned counsel for the petitioners in this regard to create doubt qua its



authenticity. Therefore, when the execution of the aforesaid photo copies by the petitioners, itself is debatable, no question of their custodial interrogation for such purpose arise at all.

19. Therefore, considering all the above facts and circumstances, without commenting on the merits of the case, interim bail granted to petitioners **Utsav Singal and Nitika Aggarwal** vide orders dated 04.10.2024 and 28.10.2024 passed in the aforesaid cases respectively is hereby confirmed, subject to conditions as envisaged under Section 482(2) BNSS. Further, they will not tamper with the evidence nor will influence the witnesses; shall cooperate with the investigation as and when so required; not to leave the country without prior permission of the Court.

20. Both the petitions stand allowed.

21. Any observation made above shall not be construed as opinion of this Court on the merits of the cases.

22. Pending CM applications, if any shall also stands disposed of.

23. Photocopy of this order be placed on the connected file.

(SANJIV BERRY)
JUDGE

29.11.2024
Gyan

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|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |