

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-60687-2023

Date of Decision:-27.02.2024

Raj Kumar.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Mandeep Singh, Advocate for the Petitioner.

Mr. Deepinder Singh Brar, Senior Deputy Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.177 dated 23.09.2023 under Sections 420 & 120-B IPC registered at Police Station Samana, District Patiala, Punjab.

2. The present FIR came to be registered at the instance of Rajveer Singh son of Sh. Chanan Singh which reads as under:-

“ It is registered at this time that one complaint bearing number 5654/presentation date 31.05.2023 through Rajveer Singh son of Chanan Singh resident of village Khanorha, Tehsil Nabha District Patiala Mb no. 98150-65607 to SSP Sahib Patiala for registration of FIR against Raj Kumar, Balwinder Sigh, Sukhwinder Sigh Son's of Lal Chand, Paramjit Kaur D/o Lal Chand Residents of Kularan, Tehsil Samana, District Patiala under section 420, 120-B IPC Police Station Samana received through Post which is stated as under respected SSP Sahib Subject:- Complaint against (1) Baljinder Singh,

(2) Sukhwinder Singh, (3) Raj Kumar (Mobile No: 9023755064), son of late Lal Chand son of Babu Ram and (4) Paramjit Kaur daughter of Lal Chand son of Babu Ram, r/o Kularan, Tehsil Samana, District Patiala for transfer 100 kanals of their land to (5) Tarlok Singh, son of Harnam Singh, son of Sawan Singh and (6) Sarabjit Kaur, wife of Jaswinder Singh, resident of unidentified village, by conspiring with each others with illegal means with intention to defraud the complainant executed sale deed on the name of No. 5 and 6 and Gurmail Singh who is (son-in-law of Lal Chand) (Mobile No. 93175-58486) son of Sampooran Singh Moonak, District Sangrur who was involved in the dealing and later on met with the rest of the accused for harassing the applicant appropriate legal action be taken and for defrauding the applicant of Rs.20,00,000/-. Sir, I am Rajveer Singh aged about 55 years son of Mr. Channan Singh resident of village Khanorha, Tehsil Nabha, District Patiala and humbly request that 1) That the land area of Village Kularan, Tehsil Samana, District Patiala measuring 100 Kanal which was in the name of Mr. Lal Chand, father of the said accused. 2) That the said Lal Chand, during his lifetime, entered into an agreement with me to sell the land owned by him of Village Kularan, Tehsil Samana, District Patiala at the rate of Rs.7,75000/- per acre on 18.09.2007 and out of the said land amount of He had paid Rs.7,00,000/- to the said Lal Chand as earnest money on 18.09.2007 in the presence of witnesses. That the said Lal Chand could not get the sale deed executed on my name on the given date because according to the said accused, the transfer case was going on in the court of Land Commissioner F.C.R. and when I came to know about it, I filed a civil suit against Lal Chand, the father of the said accused, in the honorable court and the judgment of this case was given on 30.04.2013 by the honorable judge Mr. Ravi Inder Singh P.C.S. Civil Judge Junior Division, it was in my favour. (A copy of the judgment is attached) After the judgment of the court dated 30.4.2013, as per the order of the court, Rs.8987500 was deposited before 01.07.2013 and as per the compromise after appeal this amount of Rs.8987500 was withdrawn and the interest on this amount for 13 months is also needs to be paid to the petitioner by the accused, whose responsibility also lies with above said accused and according to the spirit of the compromise, the said accused after the FCR/Commissioner case was decided, should do the registry of said land in favour of the complainant, but the Registry was not registered

in the name of the petitioner whereas the complainant was always ready to get the registry done. 3) That thereafter Lal Chand, the father of the said accused, filed an appeal against the said decision in the Court of District Judge, Patiala, but on 24.12.2013, Lal Chand died and after the death of Lal Chand, as per above said appeal the heirs of Lal Chand, the said accused Nos. 1 to 4 became the appellants and during the pendency of the appeal, the parties reached a mutual compromise/agreement on 19.2.2015. During the compromise/settlement, the heirs of Lal Chand agreed to get the registration of the said land in favour of the applicant by taking Rs.13,00,000/- more (photocopy of the agreement dated 19.2.2015 is attached) and under this compromise accused No. 1 to 4 were bound to execute sale deed after sanctioning of mutation on their name as the heirs of Lal Chand, in the favour of Complainant. (Copy of Compromise deed is attached). 5) That the accused became dishonest and they did not inform me (applicant) about the case decision of FCR/Commissioner Patiala Division Patiala. 6) That I have now come to know from the investigation that the said accused No. 1 to 4 have colluded with accused No. 5 and 6 to execute sale deed of the said land illegally without informing me with the intention of deceiving me No: 5 and 6 got the registry executed in favour of Tarlok Singh and Sarabjit Kaur and cheated me of Rs.20,00,000/-. It is also known that on the date 04.08.2020 accused no: 1 to 4 had registered the land of 1 bigha 8 biswa in favor of Sarabjit Kaur accused no: 6. In this way the complainant has also been cheated and his money has been usurped. Therefore, by submitting the application, it is requested that strict legal action should be taken against the said accused and justice be given to me.”

3. The Counsel for the petitioner contends that he has been falsely implicated in the present case. Only vague and general allegations had been levelled in the FIR to extort money from him. It was the complainant party which had not appeared to get the sale deed executed despite legal notices being sent to them. However, taking the allegations to be correct, the case was one of a civil dispute at best. As the petitioner was ready and willing to join investigation, he was entitled to the concession of bail.

4. The Counsel for the State and the Counsel for the complainant on the other hand contend that a compromise was arrived at multiple stages during the pendency of the litigation to the effect that the accused would execute the sale deed. However, despite the compromises/undertakings given the land was sold to the co-accused. It could not be stated to be a civil dispute as has been suggested by the petitioner. As the offence was *prima facie* established, the petitioner was not entitled to the concession of anticipatory bail.

5. I have heard learned Counsel for the parties.

6. The Hon'ble Supreme Court in the case of "***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870***", has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

" It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting

*anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. **There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail***".

7. A perusal of the FIR would clearly reveal that at various stages during the course of the litigation between the parties the compromises were arrived at to the effect that the accused persons would execute the sale deed in favour of the complainant party. However, the same was not done and instead the land was sold to some other persons. Even during the course of the present proceedings, multiple opportunities were given to the petitioner to execute the sale deed with respect to the land in question after effecting a settlement with the vendors i.e. accused no.5 & 6. However, despite availing multiple opportunities, the petitioner has refused to do so. Therefore, not only is the offence *prima facie* established but the conduct of the petitioner prior to the registration of the FIR and even during the

pendency of these proceedings leaves no doubt whatsoever that he intended to defraud the complainant party. Therefore, in order to take the investigation to its logical conclusion the custodial interrogation of the petitioner is certainly necessary.

8. In view of the above, I find no merit in the present petition and the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this anticipatory bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

February 27, 2024
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No