



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-57769-2024
DATE OF DECISION: 20.11.2024

RAKESH KUMAR @ KAKA ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.S. Bains, Senior Advocate with
Mr. Shekhar Kumar, Advocate for the petitioner(s).

SANDEEP MOUDGIL, J (ORAL)

1. **Relief Sought**

This petition has been filed under Section 482 of BNSS for grant of pre-arrest bail in FIR No. 74 dated 30.06.2024 registered under Sections 406/420/447 and 120 IPC at P.S. NRI, District SAS Nagar, Mohali, Punjab.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

"An order No. 17436/Needle Desk-5/NRI Wing dated 28.06.2024 from the office of Hon'ble Additional Director General Police NRI Wing Punjab has been received by post, according application UID No. to which an 2406526 dated 17.05.2024 from Kulwant Kaur wife Jarnail Singh Resident of Village Majri Jattan, Tehsil and District Rupnagar presently Resident of Australia to Hon'ble Additional Director General of Police, NRI Wing, Punjab, SAS Nagar is filed and the contents of the same are, " To Hon'ble ADGP Sahib NRI Wing Phase 07 Mohali Distt. SAS Nagar. Subject: Fraudulent sale of plot by preparing fake documents. Sir, I request that I have a plot



measuring 4- 3/5 Marla situated at Village Radiala Hadbast No. 77 Tehsil Kharar District Mohali purchased vide Wasika No. 4155 dated 09.08.2017 from Harinder Singh son of Bhupinder Singh Resident of House 4439 Ward No. 13 Kharar District Mohali. I purchased this plot through Navdeep Singh Babbu and his wife Sarabjit Kaur (98140-00124). We bought this plot to build shop and took possession at the spot. Myself and my husband used to live in Australia because our children are also living abroad in Australia. We moved to Australia in 2019, but due to Covid 2019, we had to stay in Australia for a long time. We came to India in the end of 2020 and rarely left home due to Covid. In the end of 2022, we went to Chandigarh from our village. When we came to see our plot while coming back, we saw that someone had occupied the shop by constructing boundary wall. The mobile number 79730-18095 was written on a board in the plot and we called on that number and the person told his name as Rakesh Kumar and also said that he has purchased these shops from Navdeep Singh by paying all the money and when asked about the sale deed then he said that sale deed is yet to be executed. We told him that the plot is in our name and we have not sold it to anyone. Thereafter we had a conversation with Navdeep Singh and he started threatening us that do whatever you wish to do, he will not leave any plot, he has sold these shops. But if you go near the shop plot, then the results will not be good. We request that our plot be vacated from these land mafia and an action be taken against Harinder Singh Sarabjit Kaur wife Harinder Singh and Rakesh Kurnar who prepared fake documents and signed agreement of our plot and justice be done to us because we have the registry of the plot and they are selling our plots by preparing fake papers. Yours faithfully-Kulwant Kaur.'

3. Contentions

On behalf of the petitioner

Learned Senior counsel for the petitioner has submitted



that the petitioner has been falsely implicated in present case and no offence has been made out against the petitioner. He further submits that the complainant Kulwant Kaur purchased the property in question vide sale deed dated 09.08.2017 and possession was handed over to her, moreover, contents of the sale deed is also not disputed. Thereafter, she went to Australia and in the year, 2020 when she returned to India, she came to know that there was a boundary wall over the plot. On calling that number, she was informed that the said plot was purchased by the present petitioner and in this regard sale deed dated 18.02.2020 is also attached with the case file as Annexure (P-2/T). He further contends that ever as per the allegations in the FIR, no role has been attributed to him, moreso, neither the property in question has been purchased by the complainant from the petitioner nor any money has been paid to the petitioner. He contends that the real culprit who is co-accused- Navdeep Singh as alleged by the complainant has been granted bail by this Court vide order dated 08.11.2024 passed in CRM-M-45320-2024.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer vehemently opposes the prayer for grant of concession of anticipatory bail stating that the petitioner in connivance with other co-accused has committed fraud upon the complainant and have taken illegal possession of the plot of the complainant by constructing shops on it.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to



the submissions as made, by the counsel for both the parties, especially to the effect that the complainant purchased the property in question vide sale deed dated 09.08.2017 and possession was handed over to her, moreover, contents of the sale deed is also not disputed and neither the property in question has been purchased by the complainant from the petitioner nor any money has been paid to the petitioner, added with the fact that the co-accused-Navdeep Singh has been granted bail by this Court, hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;



(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

20.11.2024
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No