

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

CRM-M-63639-2023 (O&M)
Date of Decision: 02.02.2024

...Petitioner

V/S

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Suresh Pal, Advocate
for the petitioner.

Mr. Manish Bansal, Public Prosecutor U.T. Chandigarh.

HARPREET SINGH BRAR J. (Oral)

1. Through the instant petition, the petitioner is seeking anticipatory bail in case FIR No. 179 dated 14.11.2021 registered under Sections 419, 420, 467, 468, 471 and 120-B of Indian Penal Code at Police Station Central, Sector-17, District Chandigarh.
2. On 18.12.2023, following order was passed:

“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in a case bearing FIR No.0179 dated 14.11.2021 under Sections 419/420/467/468/471/120-B of IPC registered at Police Station Central, Sector 17, District Chandigarh (Annexure P-1).

Learned counsel for the petitioner inter alia contends that the petitioner is not named in the FIR and in fact, pursuant to the preparation of the General Power of Attorney (GPA), no sale has taken place, as such, no wrongful loss has been caused to the complainant and petitioner is only a witness to the aforesaid GPA and not a beneficiary.

Notice of motion.

On the asking of the Court, Mr. Manish Bansal,

Public Prosecutor, U.T. Chandigarh with Mr. Ankush Singla, Advocate and Mr. Navjit Singh Advocate, who is present in Court, accepts notice on behalf of the respondent-State.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 02.02.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court."

3. Learned Public Prosecutor on instructions from ASI Ram Lubhaya submits that the petitioner has not come forward to join the investigation.

4. However, learned counsel for the petitioner disputes the aforesaid fact and submits that the petitioner has already joined the investigation but

the Investigating Officer is compelling him to confess to his involvement in the present case, which would be violative of his fundamental right as enshrined under Article 20(3) of the Constitution of India.

5. Keeping in view the fact that case of the prosecution is entirely based upon the documentary evidence and petitioner is only the attesting witness of the alleged General Power of Attorney and neither any sale has taken place nor he is the beneficiary of the same, the present petition is disposed with a direction to the petitioner to file an appropriate application before the concerned Illaqa Maigistrate within a period of two weeks, who would then summon the Investigating Officer and direct him to join the petitioner in investigation in terms of the order passed by this Court on 18.12.2023.

6. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

02.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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