

PARVEEN GUPTA @ PARVEEN KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Mr. Vinod Ghai, Sr. Advocate with
Mr. Jasdev Singh Mehndiratta, Mr. Edward George Masih and
Mr. Arnav Ghai Advocates for the petitioner

Mr. Ankit Grewal, DAG, Punjab.

Dr. Anmol Rattan Singh Sidhu Sr. Advocate with
Mr. Sunil Chadha, Sr. Advocate with
Mr. Akshay Chadha, Advocate for the complainant.

SANJIV BERRY, J. (Oral)

The instant petition has been preferred by the petitioner under
Section 482 of the Bhartiya Nagarik Suraksha Sanhita (BNSS) 2023, praying
for grant of anticipatory bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
195	26.10.2024	406, 420, 465, 467, 468, 471, 120-B IPC	Division No.5, Police District- Police Commissionerate Ludhiana, District Ludhiana

2. During course of hearing on 27.11.2024, the following order
was passed, relevant portion is reproduced here as under:-

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“2. It is inter alia contended by learned Senior Counsel



appearing on behalf of the petitioner that the petitioner is innocent and has been falsely implicated in the present which case got registered by the complainant on mere concoction, without there being any substantive evidence to support the allegations, with a view to harass him. He submits that the allegations levelled by the complainant revolve around the alleged oral agreement allegedly entered between the parties in November 2022 qua the sale of land. He contends that some transactions in this regard had already taken place. He contends that due to business transactions between the parties the petitioner took friendly loan of ₹1 crore from the complainant in March, 2023 for which the complainant advanced loan of ₹99 lakh telling the petitioner that ₹1 lakh was deducted towards TDS for depositing the same in the Income Tax Department and accordingly the aforesaid loan amount was transferred in the account of the petitioner. It was agreed that this amount will be returned by the petitioner within one and half year. He contends that few days back when the petitioner asked the complaint to supply him TDS deduction slip, then the complainant demanded more money apart from the extended loan as a consequent the petitioner had to serve a legal notice Annexure P-4 upon the complainant asking him to take the refund of this amount. He contends that the petitioner has been falsely implicated in the case and he is not having any criminal antecedents, hence prayed for bail as he is neither defrauded nor cheated the complainant in any manner.

3. *Notice of motion.*

4. *Ms. Seena Sandhu, AAG, Punjab who is present in Court, accepts notice on behalf of State and seeks time to file reply.*

5. *Dr. Anmol Rattan Sidhu, Sr. Advocate assisted by Mr. Raghav Gulathi and Varun Sharma, Advocate have put in appearance on behalf of complainant to assist the State counsel and has opposed the bail petition by arguing that the petitioner*



had not executed the sale deed in accordance with law despite having received the consideration of ₹54.5 lakh from the complainant and thus has defrauded and cheated the complainant. He further contends that with a view to defraud the complainant the petitioner had given the copy of jamabandi for the year 2017-2018 being hand written although computerized jamabandis were being issued by wrongly mentioning the name of Jasbir Kaur to be the owner of the property, as such no case is made out in favour of petitioner for grant of concession of bail.

6. After considering the rival contention and perusing the record, the State is yet to file reply in the matter and in the meanwhile, it is deemed appropriate that petitioner should join the investigation before deciding the present petition on merits. Consequently, 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 interim bail on his furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. He shall also abide by the conditions as envisaged under Section 482(2) BNSS.

7. Adjourned to 09.12.2024.

8. Reply, if any, be filed on or before the next date of hearing”.

3. Learned State counsel has placed on record reply by way of an affidavit dated 08.12.2024 of Assistant Commissioner of Police, Civil Lines, Ludhiana, the same is taken on record. Copy thereof, has been supplied to the counsel opposite.

4. Arguments advanced by the learned Senior counsel for the petitioner, learned counsel for the State assisted by learned Senior counsel representing the complainant have been heard and record perused with their



assistance.

5. It is *inter alia* contended by learned Senior counsel representing the petitioner that the instant FIR has been got registered by the complainant on flimsy ground, on the alleged violation of alleged agreement allegedly entered into between the parties in November 2022 for the sale-purchase of parcel of land. He submits that at this stage it is interesting to note that the entire case of prosecution revolves around alleged agreement which has never seen light of the day being claimed to be oral one, so it could not be ascertained as to what was the term and conditions thereof and who were bound by the same in any manner. Further, he contends that the petitioner had been in business transactions with the complainant and on account of the same petitioner had taken a friendly loan of ₹1 crore from the complainant in March 2023 and the complainant had advanced ₹99 lakh in the account of the petitioner claiming that ₹1 lakh has been deducted as TDS for depositing the same in the income tax department with this stipulation that the said amount would be returned by the petitioner within 1 ½ year. He contends that the dispute arose between the parties when the petitioner asked the complainant to supply him the particulars of the TDS and complainant demanded the amount over and above the loan advanced for which the petitioner had to get a legal notice (Annexure P-4) served upon the complainant asking him to take the advance amount back. He submits that the petitioner had not committed any fraud and being a person with no criminal antecedents, he has been falsely implicated in this case. He contends that the petitioner has also joined the investigation in compliance of the order dated 27.11.2024 passed by this Court, as such prays for grant of anticipatory bail.



6. Per contra, learned State counsel assisted by learned Senior counsel representing the complainant have assailed these arguments and prayed for dismissal of the petition. Admittedly the petitioner has joined the investigation but according to them referring to the reply submitted by the State, the petitioner has failed to disclose any fact regarding the *modus operandi* and commission in preparing forged and fabricated jamabandi. It is contended that the petitioner had handed over the hand written jamabandi to the complainant showing Jasbir Kaur to be the owner of the property as per Mutation No. 6441 which *per se* is fabricated and forged one and the custodial interrogation of the petitioner is required to unearth the *modus operandi*. They contended that in fact as per the said hand written jamabandi photo copies which are on record with the police no said patwari ever existed who had given these copies of the same on 21.11.2022 and 14.03.2023, it is submitted that by giving the copies of fabricated documents the petitioner has made serious offence and is not entitled to concession of bail.

7. After considering the rival contentions and perusing the record, it is observed that the entire case of the complainant revolves around alleged oral agreement of November 2022. the same being allegedly oral nothing can be inferred as to what were the terms and conditions thereof and who were bound by the same. The allegations levelled against the petitioner are that he had been paid ₹99 lakh by the complainant for purchase of the land which he could not arrange and has defrauded the complainant. The second allegation leveled against the petitioner is that he had handed over hand written photo copy of jamabandi for the year 2017-2018 of village Issewal to the complainant showing Jasbir Kaur to be the owner of the land which



was manifestly wrong and even the said documents were found to be forged and fabricated one. Considering the submissions and perusing the record, it transpires that so far as the dispute regarding ₹99 lakh is concern the prosecution could not bring on record anything substantive to show that the amount of ₹99 lakh was paid by the complainant to the petitioner for the purchase of any land, the alleged agreement being oral one, on the other hand it is categorically submitted by the counsel for the petitioner that this amount was towards friendly loan and on the dispute having arisen the petitioner through his counsel had given legal notice Annexure P-4 much before the lodging of the instant FIR asking the complainant to take the amount back, so prima facie no question of alleged fraud arise. Another allegation put forth by the complainant is that the photo copies of hand written jamabandi for the year 2017-2018 of Village Issewal pertaining to the land of one Jasbir kaur, are fabricated documents given by the petitioner and other co-accused on 21.11.2022 and 14.03.2023. This argument do not seem plausible, keeping in view the fact that the complainant happens to be a Realtor and Developer knowing fully well that the entire revenue record is computerized by the State and it is not plausible to believe that he relied upon the alleged photo copied hand written revenue record without verifying the same because for all intent and purposes in such like transactions the principle of “buyer beware” has to be taken note of. Admittedly, the alleged documents do not bear the signature of the petitioner on it, so as to bind the petitioner in any manner.

8. Admittedly, the factum of petitioner having joined the investigation is not disputed by learned State counsel. However the ground taken by the State in the reply opposing the bail and requiring his custodial

interrogation have been considered and found to be not plausible or justifiable at all.

9. The petitioner having already joined the investigation in compliance of the order dated 27.11.2024 passed by this Court and no case is made out for custodial interrogation, therefore, considering all the above facts and circumstances, without commenting on the merits of the case, interim bail granted to petitioner is hereby confirmed, subject to conditions as envisaged under Section 482(2) BNSS. Further, he 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.

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

11. Pending CM applications, if any shall also disposed of.

(SANJIV BERRY)
JUDGE

09.12.2024

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