



CRM-M-64835-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of decision: 20th December, 2024

Om Pati ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA
Present: Mr. Pragayat Bhardwaj, Advocate for the petitioner.
Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
365	21.06.2024	Sector 32-33, Karnal	406, 420 and 120-B read with Section 34 of IPC

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR had been registered on basis of a complaint lodged by the complainant Sukhdev Singh making allegations that he had entered into an agreement to purchase a house owned by the

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present petitioner. The sale consideration amount was fixed to be Rs. 59,00,000/-. An amount of Rs. 20,00,000/- had been paid by him. The sale deed was to be executed on 31.08.2024. The petitioner and her son sought extension in the time of execution of the sale deed by disclosing that the house in question was lying mortgaged and they have to repay the loan. Even on the extended date so fixed, the petitioner did not come forward for registration of the sale deed and it was revealed that the above mentioned house had been auctioned by the banker of the petitioner to some other person. The complainant while alleging that the petitioner had received earnest money with dishonest intention to not to execute sale deed in her favour and to cheat her, she prayed for taking action in the matter. Investigation proceedings have been initiated and are underway. Apprehending her arrest, present petitioner had moved an application for grant of pre-arrest bail before the Additional Sessions Judge, Karnal which was dismissed vide order dated 04.12.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by her counsel that she has been falsely implicated in this case. It is a dispute of civil nature which has been given colour of a criminal case. The case is based upon documentary evidence. Trial is likely to take time. Her custodial interrogation is not required. She is ready to join the investigation. Therefore, it is argued that the petition deserves to be allowed.

4. Notice of motion.

5. Learned Addl. A.G., Haryana, has advance notice of the



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petition. Mr. Gurmail Singh Duhan, Advocate has put in appearance on behalf of the complainant and has filed Memo of appearance.

6. Learned Addl. A.G., Haryana assisted by learned counsel for the complainant has argued that the ingredients for commission of offence of cheating are *prima facie* established as against the petitioner as despite knowing that the property in dispute was lying mortgaged with the bank, she entered into an agreement to sell the same with the complainant and received huge amount of money by way of earnest money. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of pre-arrest bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

7. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

8. The petitioner in connivance with her son and one Devender Lathar i.e. co-accused, is alleged to have entered into an agreement to sell her house in favour of the complainant by concealing the fact that this house was already lying mortgaged, she concealed this fact and did not repay the loan amount, even after receiving earnest amount of Rs. 20,00,000/- thereby causing wrongful loss to him as the said house is shown to have been auctioned by the bank. The allegations *prima facie* show a case for commission of offence of cheating. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. It is also well settled that the Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and



has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

20th December, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |