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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.2032 of 2025
Date of Decision: 15.02.2025
Reserved on: 06.02.2025

Ashutosh Kaushik ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manish Deswal, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana and
Mr. Anil Kumar Chahal, DAG, Haryana,
for the respondent-State.

Mr. Abhishek Chha, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner 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
555	21.12.2024	Pinjore, District Panchkula	420 of IPC

2. Adumbrated facts as emanating from the record are that the aforementioned FIR had been registered on the basis of a complaint lodged by the complainant Laxman Singh on the allegations that the petitioner had represented to him that he owned 2/73 share in agricultural land situated at Village Mouza Bitna, Tehsil Kalka, District Panchkula

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and induced the complainant to purchase the same. On being so induced, the complainant had agreed to purchase the aforementioned land for a sum of Rs.24,20,000/-. The entire amount was paid by the complainant to the petitioner and co-accused Bhupinder Sharma. The co-accused Bhupinder Sharma and the petitioner had showed the land/plot in question by breaking open the lock of the main gate on the pretext that the keys could not be brought by them. The complainant had availed loan for a sum of Rs.13,95,000/- for the purpose of purchase and also invested his hard earned money. Sale deed was executed in his favour on 05.06.2024. The mutation was also sanctioned in favour of the complainant. Subsequently, the complainant came to know that two persons namely, Kamlesh Rawat and Jarnail Singh @ Jelly had been claiming ownership qua the abovesaid plot/land. The petitioner had even filed a suit for permanent injunction against them which was dismissed and litigation was pending before this Court but this fact had been concealed by the petitioner. It was also revealed that the petitioner had filed a suit for partition. Since the complainant purchased a particular plot/piece of land on the basis of representation made by the petitioner that he was in specific possession over the same as owner and believing his representation though the petitioner did not possess the same and wrongful loss had been caused to the complainant, therefore, he prayed for taking action in the matter. After registration of FIR, investigation proceedings were initiated. Apprehending his arrest, the petitioner moved an application for grant of pre arrest bail which has been dismissed by the Court

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of learned Additional Sessions Judge, Panchkula vide order dated 04.01.2025.

3. It was argued by learned counsel for the petitioner that he has been falsely implicated in this case. The ingredients for commission of offence under Section 420 of IPC have not been made out against him. Infact, he had entered into an agreement to sell his property to co-accused Bhupinder Sharma and it was Bhupinder Sharma who had got sale deed executed in favour of the present complainant. The complainant had received possession of that very property. He was owner thereof. The dispute between the parties is not of criminal nature. Litigation qua partition of the property in question which is part of a joint property is pending. There is no cloud on the title of the petitioner and infact dispute is only qua the possession which is civil in nature but has been given colour of a criminal dispute. The petitioner is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. Therefore, it was urged that he deserves to be given concession of pre arrest bail.

4. Status report had already been filed by the respondent-State. Learned State counsel assisted by learned counsel for the complainant had vehemently argued that there were serious allegations against the petitioner. The petitioner had falsely shown the plot in question to be under their peaceful possession and the complainant had purchased the same presuming to be so though infact it was under possession of Kamlesh Rawat who

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purchased the same in the year 2011. The fact that there was litigation with regard to possession of the said plot had been concealed by the petitioner though there was specific recital in the sale deed that no case qua the said plot was pending. The complainant had suffered huge financial loss as he has neither received possession of the property purchased by him nor the money given by him to the petitioner has been returned. There is no extraordinary and exceptional circumstance for extending benefit of pre arrest bail to the petitioner. Therefore, it was urged that the petition does not deserve to be allowed.

5. Learned counsel for both the parties were heard at considerable length.

6. As per the allegations, the petitioner while representing him to be in possession of a particular piece of land forming part of a joint khata, induced the complainant to purchase the same for a sum of Rs.24,20,000/- while fully knowing that the said particular property was already under litigation and he was not in possession of the same. By concealment of this material point, he got a sale deed executed qua the same in favour of the complainant by taking huge amount of money. The allegations in the FIR prima facie show a dishonest intention on the part of the petitioner to deprive the complainant of his money by way of purchasing a plot which was under litigation. It is well settled proposition of law that powers under Section 482 of BNSS (which is pari materia with Section 438 of Cr.P.C.) are to be exercised in exceptional and extraordinary circumstances. No such



circumstance has, however, been made out in this case. For the purpose of conducting thorough investigation in the matter, custodial interrogation of the petitioner is required. Accordingly, finding no reason to allow the petition, the same is dismissed.

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

15.02.2025
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(MANISHA BATRA)
JUDGE

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