2025:PHHC:013714

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

319 (05 cases)

1. CRM-M-6070-2024 (O&M)

Harjinder Singh @ Kang ...Petitioner

Versus

State of Punjab ...Respondent

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2. CRM-M-6280-2024 (O&M)

Vijay Kumar @ Sonu Mahajan ...Petitioner

Versus

State of Punjab ...Respondent

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3. CRM-M-7265-2024 (O&M)

Deepak Ahuja ...Petitioner

Versus

State of Punjab ...Respondent

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4. CRM-M-47806-2024 (O&M)

Naresh Kumar ...Petitioner

Versus

State of Punjab ...Respondent

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5. CRM-M-10690-2024 (O&M)

Laddi Rathore ...Petitioner

Versus

State of Punjab ...Respondent

Date of decision: 29.01.2025

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

2025:PHHC:013714

Present:- Mr. Karan Bansal, Advocate,
Mr. Manoj Kumar, Advocate and
Ms. Mehak Sharma, Advocate
for the petitioner in CRM-M-6070-2024.

Mr. Keshav Partap Singh, Advocate and
Mr. Gagandeep Singh Virk, Advocate
for the petitioner in CRM-M-6280-2024.

Mr. H. S. Rakhra, Advocate
for the petitioner in CRM-M-4265-2024.

Ms. Vandana Kohli, Advocate
for the petitioner in CRM-M-47806-2024. (Through VC)

Mr. Nitish Bhatia, Advocate
for the petitioner in CRM-M-10690-2024.

Ms. Himani Arora, AAG, Punjab.

Mr. Harsh Aggarwal, Advocate
for GLADA.

Mr. Dinesh Trehan, Advocate
for the complainant. (Through VC)

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MANISHA BATRA, J. *(Oral)*

1. This common order shall dispose of above noted five petitions as these petitions arise out of the same FIR and seek similar relief.

2. These petitions have been filed under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail to above named petitioners in case bearing FIR No. 0003 dated 08.01.2024, registered under Sections 420, 465, 467, 468, 471 and 120-B of IPC at Police Station Model Town, District Ludhiana.

3. Adumbrated fact as emanating from the record are that the aforementioned FIR was registered on the basis of a complaint lodged by complainant Deepak Kathuria, who is owner of a restaurant in Ludhiana, on the allegations that accused Tarun Tanjea, Harwinder Singh Sachdeva and

Parminder Singh Sachdeva, who are property dealers, as well as petitioner Harjinder Singh Kang had represented to his uncle Aniljit Singh and himself that one property bearing SCO No. 105, Urban Estate, Dugri, Ludhiana, which was owned by accused Mandeep Singh, was available for sale. The complainant and his uncle visited the property and agreed to purchase the same after verifying the documents. The above named accused introduced the complainant with Mandeep Singh, who showed the complainant, copies of allotment latter, clearance certificate and also represented that a registered sale deed dated 25.05.2017 with regard to said property had been executed in his favour. Accused Tarun Taneja, Harwinder Singh Sachdeva and Parminder Singh Sachdeva along with other property dealers like Upjit Singh and Naresh Kumar also convinced the complainant that all the documents relating to ownership of above said property had been checked and verified by them and the same were found to be in order. The complainant alleged that believing the representations made by them and on being introduced by them, his uncle and himself entered into an agreement to purchase the above said property with accused Mandeep Singh for a sum of Rs. 5.5 crores and paid an amount of Rs. 1.5 crore as earnest money to Mandeep Singh in the presence of accused Tarun Taneja, Harwinder Singh Sachdeva, Parminder Singh Sachdeva, Upjit Singh and Naresh Kumar.

4. As per the further allegations, the property dealers/accused even took the complainant and his uncle to the office of Greater Ludhiana Area Development Authority *(for short 'GLADA'),* where on their request, two computer operators, one of whom was Amit Kumar Tiwari, checked the documents and represented that the property sought to be purchased by the complainant was in fact owned by accused Mandeep Singh. Thereafter, a sale

deed was got registered in favour of the complainant and his uncle by Mandeep Singh after receiving total sale consideration amount on 28.06.2022, which was attested by Tarun Tanjea, Naresh Kumar, Upjit Singh and Harwinder Singh Sachdeva. On asking of accused Harwinder Singh Sachdeva and Upjit Singh, a transfer letter issued by GLADA in respect of the said property in the names of the complainant and his uncle had also been given by Amit Kumar Tiwari. It was further alleged by the complainant that in the year 2023, he came to know that the property so purchased by him and his uncle had in fact never been allotted and sold by GLADA to any other person and he also came to know that the accused persons, in connivance with each other, had prepared fake sale deed and other documents qua ownership of the said property in the name of Mandeep Singh and had sold the same to them, thereby causing wrongful loss to the tune of Rs. 5.5 crores. After registration of the FIR, investigation proceedings were initiated. The petitioners have filed the present petitions seeking grant of anticipatory bail and all of them, except petitioner Naresh Kumar, have been granted concession of interim bail by the coordinate Bench.

5. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. The complainant has filed a civil suit, wherein it was specifically averred that the entire sale consideration was paid to accused Mandeep Singh either by way of cash or through cheques by the complainant and his uncle and there was no allegation that any amount was received by the present petitioners. Except the petitioner Naresh Kumar, the other four petitioners had not even been named in the complaints filed by the complainant before the police before lodging of the FIR. No allegation of committing any fraud and cheating had been levelled as against the petitioners. It is also argued that the petitioners were neither signatory to any agreement or

execution of sale deed in favour of the complainant nor they ever appeared as a witness to the alleged transaction of sale of the said property. No money had been received by them. They had never met the complainant or his uncle. The allegations qua commission of offence of cheating and forgery have not been made out against them at all. Barring petitioner Naresh Kumar, all the other petitioners have already joined investigation and they are ready to join the same again if so required. Their custodial interrogation is not required. No recovery is to be effected from them. Concession of interim bail has not been misused by the petitioner(s). Therefore, it is urged that the petitions deserve to be allowed and the petitioners deserve to be extended benefit of anticipatory bail.

6. Separate status reports have been filed by the respondent-State in each case. It is submitted therein and learned Assistant Advocate General, Punjab, assisted by learned counsel for the complainant, has vehemently argued that the allegations against the petitioners are serious in nature. They were party to the conspiracy hatched by other co-accused to cheat the complainant and his uncle and cause wrongful loss of money to them. In pursuance of the conspiracy hatched by the accused persons including petitioners, the complainant had been induced to enter into an agreement to purchase the above said property by showing that the same was owned by accused Mandeep Singh and was available for sale. It is argued that the accused persons, in connivance with the present petitioners, had prepared false papers as to ownership of the said property in favour of Mandeep Singh and had got registered fake sale deed qua the same in the name of the complainant and his uncle, while fully knowing that Mandeep Singh did not own any such property. It is further argued that the petitioners are the beneficiaries of the

cheating so committed with the complainant and had received different amounts of money out of the amount received from the complainant. Even certain amounts of money were transferred by co-accused Upjit Singh in the account of other accused and these transfers were links in the chain of circumstances pointing towards the complicity of the petitioners in the subject crime. It is submitted that keeping in view the gravity of the allegations as levelled against the petitioners, the order(s) granting interim bail to the petitioners does not deserve to be made absolute. Rather, the custodial interrogation of the petitioner is required to conduct thorough investigation in the matter and to unearth the manner in which the conspiracy to cheat and defraud the complainant had been hatched. Even otherwise, no extraordinary or sparing circumstance has been made out in favour of the petitioners to seek concession of anticipatory bail as a matter of right. Hence, it is urged that the petitions are liable to be dismissed.

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

8. The petitioners in concert with co-accused are alleged to have prepared false and fabricated documents with regard to allotment of SCO No. 105, Urban Estate, Dugri, Ludhiana and by inducing the complainant and his uncle to believe in the authenticity of those documents are further alleged to have got executed and registered a sale deed for a sum of Rs. 5.5 crorer with regard to the aforesaid property, claimed to have been owned by Mandeep Singh, though it was never owned by him. These fabricated documents included allotment letters, transfer application forms and sale deeds. The petitioners as well as co-accused are alleged to have derived wrongful benefit out of the sale consideration and have caused wrongful loss to the complainant and his uncle. During the

course of investigation, accused Mandeep Singh and Upjit Singh were arrested. They suffered disclosure statements admitting their involvement in the subject crime. After going through the disclosure statements, it is revealed that co-accused Mandeep Singh and Upjit Singh, in connivance with the present petitioners, had prepared fake documents qua above said property, for which, a sum of Rs. 10 Lakhs was given to co-accused Amit Kumar Tiwari and Raj Singh, who were officials in GLDA. It is further revealed that the amount so received from the complainant was shared by the accused persons and in that process, an amount of Rs. 13 was given to petitioner Harjinder Singh Kang; petitioner Vijay Kumar @ Sonu Mahajan had received an amount of Rs. 80 Lakhs, out of which, Rs. 12 Lakhs was transferred in his bank account and Rs. 1.5 Lakhs in the account of his wife namely Neha Mahajan, whereas rest of the money was given to him in cash and petitioner Naresh Kumar had received an amount of Rs. 10 Lakhs. A joint perusal of the status reports also reveals that the petitioners, in connivance with other accused, had tried to usurp a govt. property of the value of crores of rupees. There are serious allegations against the petitioners, some of whom have criminal antecedents also. They along with other co-accused had duped the complaiant/victims of the huge amount of Rs. 5.5 crores. Keeping in view the gravity of allegations, I am of the considered opinion that custodial interrogation of the petitioners is must for conducting proper investigation in the matter and also for ascertaining the manner in which the false and fabricated documents were prepared by involving govt. officials in order to cheat and defraud the complainant and his uncle. Simply because the petitioner(s) have joined investigation at some point of time, no indefeasible right has accrued in their favour to seek grant of anticipatory, especially when no extraordinary or sparing circumstances have been made out in their favour. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court.It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioners to seek concession of pre-arrest bail has been made out rather their custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petitions are hereby dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petitions and the same shall not be construed as an expression of opinion on the merits of the case.

10. Let a photocopy of this order be placed on the file of the connected case.

29.01.2025 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

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