



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-16108-2025

DATE OF DECISION: 25.03.2025

BARINDER KUMAR

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Dassaur, Advocate
for the petitioner(s).

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 482 BNSS Act, 2023 for granting the pre-arrest bail to the petitioner in F.I.R. No.0016 dated 15.02.2025 (Annexure P-1) under Section 316(2), 318(4), 336(2), 336(3), 340(2) BNS registered at Police Station Nurpur Bedi, District Roopnagar.

2. Prosecution story, set up in the present case as per the version in the FIR reads as under :-

‘Copy of complaint, "S.S.P. Sahib, District Rupnagar. Subject:-Complaint against Barinder Kumar son of Jagdish Lal resident of Village Tooran (Musani). Tehsil Phillaur, District Jalandhar and his wife Deepak Bala for deceiving and committing fraud. Sir, Requested that in Year 2019 afore-mentioned Barinder Kumar contacted us and said that we want



to purchase your 29 Bigha land situated in the area of Village Karura, Tehsil Nurpur Bedi. At his instance we did meeting with him and he introduced us with Harpartap Singh son of Ishar Singh resident of House No. 6-A, Jyoti Nagar, Jalandhar, who said that the company which has to purchase your land shall plant Chandan type trees in this land. We gave nod and on dt. 02.04.2019 agreement to sell this land at the rate of Rs.3,81,000/- per Acre was duly executed. Afore-mentioned Barinder Kumar paid only Rs. 64,500/- as token money and date 16.12.2020 was fixed for registration of sale deed, in which this condition was written that the buyer can get registered the sale deed on his name or on the name of third party and sellers shall be bound to purchase 31 Acre land from other land owners and to further sell to buyer. If buyer gets registered the sale deed to third party at higher rate then at the instance of Barinder Kumar, seller party shall transfer the surplus amount. We purchased 31 Acre land form different land owners and then Barinder Kumar placed a new condition that whole land should be in a single chunk. This condition was not acceptable to us and then bahmi agreement was executed again on dt. 20.03.2020, in which Barinder Kumar had personally taken responsibility of all loss/damages. Then on dt. 25.08.2020 we received one letter from department, in which rate of Rs. 09,90,000/- was fixed through e-tender and we did not have any information about this, in which Barinder Kumar had submitted tender of afore-mentioned land by showing his relative Kamal Kishore son of Tek Chand resident of Malupota, District Nawanshahr as tenderer/ bidder. From dt. 02.04.2019 till registration of sale deed on dt. 01.09.2020 afore-mentioned Barinder Kumar did all dealings with Revenue Department, Forest Department alone and did not let us know about this. On dt. 02.09.2020 Barinder Kumar instead of getting registered sale deed of 54 Acre 08 Marla land out of total 60 Acre directly on his name got registered the sale deed to Mani Lal Hans, Block Officer



Rupnagar through Forest Department Punjab. As per agreement to sell, after receiving Rs. 3,81,000/- we shall be bound to transfer the surplus amount of total Rs. 03 Crore 03 Lac in the accounts of Deepak Bala, Harpartap Singh and Gurbir Singh till dt. 22.09.2020 at the instance of second party. Accordingly, at the instance of Barinder Kumar we had transferred the amount of Rs. 03 Crore 03 Lac in their accounts on dt. 04.09.2020, 14.09.2020 and 16.09.2020, Mastermind of this whole sequence of events was Barinder Kumar, because this was closed area and Barinder Kumar in connivance with officials of Forest Department sold this land by showing it as open area. As a result, Forest Department got registered one FIR No. 69 Dated 28.06.2022 U/s 420,465,467,468,471 IPC 7/7, 8/13 P.C. Ac 1988 As Amended By P.C. Act 2018 PS Nurpur Bedi against us and tenderer/ bidder Kamal Kishore. In order to save our reputation in society we have also deposited Rs. 06 Crore 37 Lac alongwith interest at the rate of 8% with concerned department. In order to grab our Rs. 03 Crore 30 Lac they prepared bogus agreement of Rs. 01 Crore on the name of Harpartap Singh and bogus agreement of Rs. 01 Crore 95 Lac on the name of Deepak Bala. In respect to this fraud we are taking legal action against them through Jalandhar Police. Barinder Kumar in order to grab the afore-mentioned amount earned by fraud got prepared one bogus agreement to purchase our land, house situated at Village Tooran and our machinery on his and his wife's name on dt. 15.09.2020. This Stamp Paper No. 2523 Dated 15.09.2020 has been purchased from Tehsil Nurpur Bedi and has been prepared there itself and description of money received through deal of land of Village Karura is also written in it, in which our (alleged sellers) forged signatures are given and bogus witnesses have given their signatures on that bogus agreement. The land whose detail is given in said bogus agreement is on the name of any other person. We do not have this property nor are/were owners of this property ever. We shall produce photocopies of



agreement, bahmi agreement, fard jamabandi and receipts/ statements of depositing money in bank accounts during enquiry. Therefore, legal action be taken against these persons for deceiving and committing fraud with us. Sd/- Aminder Singh.'

3. **Contentions of the petitioner**

On behalf of the petitioner

Learned counsel for the petitioner would contend that the whole dispute revolves around one agreement to sell and therefore, no criminal liability can be fastened upon the petitioner and the petitioner had no deceitful intention to cheat the complainant and has been falsely implicated in the present case. He further submits that he is ready and willing to join investigation and cooperate with the investigating officer concerned.

Notice of motion.

On behalf of the State/complainant

On the asking of the Court, Mr. Jaspal Singh Guru, AAG, Punjab accepts notice on behalf of the respondent-State, who along with Mr. Abhilaksh Grover, Advocate appearing on behalf of the complainant vehemently argue that the petitioner shouldn't get anticipatory bail because they allegedly cheated the complainant by creating fake land sale agreements and taking a large sum of money. He further argues that questioning the petitioner in person is necessary to investigate the case properly and for the recovery of the alleged earnest money. Therefore, prays for dismissal of the same.



4. **Analysis**

From the perusal of the FIR it can be culled out that there are specific allegations levelled against the petitioner namely Barinder Kumar, that he impersonated as one Harpartap Singh and allegedly cheated the complainant in a land deal. He agreed to purchase 29 acres of land in village Karuran at ₹73,81,000 per acre, with an advance payment of ₹7,64,500. However, he later introduced new conditions and secretly conducted dealings with the revenue and forest departments. Without the complainant's knowledge, petitioner sold the land to the Forest Department at a higher rate, transferring ₹3,30,00,000 to his and his wife's accounts. The complainant was forced to deposit ₹26,37,00,000 with 8% interest to save their reputation after the Forest Department registered a case against them. Further Investigations revealed that petitioner created fake agreements to sell, including one for ₹1,00,00,000 in Harpartap Singh's name and another for ₹1,95,00,000 in Deepak Bala's name. Report from Handwriting experts also confirmed that the signatures on these agreements were forged, therefore when there are serious allegations levelled against the petitioner granting him bail at this stage would indicate endorsing his illegal acts which cannot be permitted by this Court.

The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail because an element of cheating is involved in it. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand.



The Hon'ble Supreme Court in the case of '***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.***' 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court



hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case.

It is settled proposition of law that power exercisable under Section 482 BNSS, 2023., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “**State vs. Anil Sharma**”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods needs not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

5. **Relief**

In view of the seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial



interrogation of the petitioner is certainly required. Therefore, I find no merit in the instant petition, hence, the same is hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

25.03.2025

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No