**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-22415-2022(O&M)

Smt. Renu Mehta and another

…...Petitioners

Versus

State of Punjab

…...Respondent

1.	**Date when Order was reserved**	**10.12.2025**
2.	**Date of Pronouncement of Order**	**22.12.2025**
3.	**Date of uploading Order**	**22.12.2025**
4.	**Whether operative part or full Order is pronounced**	**FULL**
5.	**Delay, if any, in pronouncing of full order, and reasons thereof**	**NOT APPLICABLE**

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Sant Pal Singh Sidhu, Senior Advocate, with
Mr. Deepdaman Singh Mann, Advocate, and
Mr. Udayveer Singh, Advocate,
for the petitioners.

Mr. Neeraj Madaan, Sr. DAG, Punjab.

Mr. G.C. Dhuriwala, Advocate, for the complainant.

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SANJAY VASHISTH, J.

1. Petitioners, namely Renu Mehta, aged 51 years, and her husband-Neeraj Mehta, aged 56 years, have filed the present petition, under Section 438 Cr.P.C., seeking pre-arrest bail in FIR No. 0078, dated 21.04.2022, under Sections 406, 420 and 120-B of IPC, registered at Police Station Phase-I, S.A.S. Nagar (Mohali) [Annexure P-2].

2. This case revolves around a property dispute amongst the petitioners and the complainant, concerning an industrial plot, bearing

No. D-38, Industrial Area, Phase-I, S.A.S. Nagar (Mohali), measuring 1416.67 Square Yards. The said plot is jointly owned by both the petitioners, having 50% share each.

3. Before setting out the details of the transaction in chronological sequence, it would be appropriate to first refer to the FIR (supra) registered by the complainant, Gurdev Sahai Marwah, which reads as under:

> *"**1**. That the Complainant No. 1 who is a senior citizen, has been residing at the above mentioned address in the United States of America for a long time and has given her General Power of Attorney dated 07.09.1985 (copy enclosed) to her close relative i.e. the Complainant No. 2, which is duly embossed by the Finance and Planning Officer, Chandigarh Administration (copy enclosed), the same has been valid and subsisting till today as the same has not been revoked, thus, the Complainant No. 2 is well competent to represent the Complainant No. 1 and to conduct the proceedings, who otherwise acquainted/conversant with the facts and circumstances of the present Complaint. **2**. That the Complainant No. 2 is also a senior citizen who have Complaint on behalf of the Complainant No. 1 as well as on behalf in his right, **3.** That whereas, the said Neeraj Mehta is the husband of the said Renu Mehta who have been the joint owners to the extent of 50% share each in the free hold built-up Industrial Plot No. D-38, Industrial Area, Phase 1, SAS Nagar (Mohali) measuring 1416.67 sq. yds. having covered area of 11000 sq. ft. app. (hereinafter referred to as the said building). There have been two blocks in the said building, the 1st block has been consisting of the Lower Ground Floor, Upper Ground Floor, First Floor, whereas the 2nd block has been consisting of the Lower Ground Floor, Upper Ground Floor, First Floor and Second Floor. The said building has been having seven tenants from whom the rental income has been accruing @ Rs. 2,03,000/-per month with the applicable increment clause, and whereas, an area of 6500 sq. ft. has been lying vacant as on 24.04.2018. It is also important to mention here that there has been a loan against the said building to the tune of Rs. 1,59,00,000/- (Rupees One Crore Fifty Nine Lacs only) from Magma Fincorp Ltd. as on 24.04.2018. **4.** That both the alleged persons have been having personal as well as business relations with the Complainant No. 2 for a long*

*time and have thus won over his trust, and have been approaching him to seek one or the other help over a period of time as they have always been in some sort of financial crisis. Due to their pressing need and compelling circumstances, they approached the Complainants to sell the 100% share in the said building to which the Complainants agreed to purchase the same believing their representation to be true and being so induced by them, an Agreement to Sell dated 24.04.2018 (copy enclosed) was duly executed in good faith on requisite stamp papers between the Parties on various terms and conditions, which was duly Notarized as well, the content of the said Agreement to Sell may be treated as part and parcel of this para, the same is not repeated here for the sake of brevity and precision. **5**. That as per the said Agreement to Sell, the total sale price of the said building was settled as Rs.6,47,25,000/- (Rupees Six Crores Forty Seven Lacs Twenty Five Thousand only) out of which both the alleged persons received an amount of Rs........./- (Rupees ... only) including consideration given in the past as an Earnest Money (Biana) from the Complainants, followed by other part payments which were given under the bona-fide belief as per details duly acknowledged by them vide Receipt of Part Payment dated 06.02.2019 (copy enclosed) as per which they have received a total sum of Rs. 4,31,51,000/- (Rupees Four Crores Thirty One Lacs Fifty One Thousand only) till date, whereas, the remaining sum of Rs. 2,15,74,000/- (Rupees Two Crores Fifteen Lacs Seventy Four Thousand only) including the above said loan of Rs. 1,59,00,000/- (Rupees One Crore Fifty Nine Lacs only) has been agreed to be paid by the purchasers/Complainants at the time of execution and registration of the Sale Deed of the said building on or before 15.03.2019. **6.** That as per the said Agreement to Sell, the last date for completion of this bargain i.e. the final payment, execution and registration of Sale Deed was originally fixed on or before 18.07.2018, which date has been extended by both the Parties mutually from time to time and the last extended date was 15.03.2019 as per the above said Receipt of Part Payment dated 06.02.2019 (copy enclosed) and by that date, both the alleged persons have agreed to provide "No Objection Certificate" and other necessary documents to the Complainants for completion of sale of the said building in order to make the property marketable being a necessary duty of the sellers. It is relevant to emphasize that both the alleged persons were required to provide 2 NOCS, i.e. one from the above said Financial Institution (i.e. Magma Fincorp Ltd.) and thereupon, the second from the GMADA in order to perform their part of obligations arising from the said Agreement to*

*Sell to enable them to execute and get the Sale Deed registered in favour of the Complainants. **7**. That both the alleged persons were receiving rent@ Rs. 2,03,000/- per month with increment clause from the seven tenants in the said building as on the date of the said Agreement to Sell i.e. 24.04.2018. 1t is worthwhile to mention here that as per para 3 of the said Agreement to Sell, it was specifically agreed that the purchasers/Complainants will be entitled to get this rent directly from the tenants w.e.f. 01.05.2018, This was so agreed in view of the huge amount stood already paid to the sellers/the alleged persons by the Complainants for a long time which they have been enjoying and will continue to enjoy without paying any interest thereupon till the execution and registration of the Sale Deed of the said building. **8**.That in order to rectify some of the inadvertent clerical/calculation mistakes qua the amounts received by the sellers/the alleged persons in the said Agreement to Sell and also with a view to have clarity, the above said Receipt of Part Payment dated 06.02.2019 (copy enclosed) was deemed necessary to be executed between the Parties as per which both the alleged persons had clearly acknowledged the receipt of a total sum of Rs. 4,31,51,000/- (Rupees Four Crores Thirty One Lacs Fifty One Thousand only) as on 06.02.2019, whereas, the remaining sum of Rs. 2,15,74,000 /- (Rupees Two Crores Fifteen Lacs Seventy Four Thousand only) including the above said loan of Rs. 1,59,00,000/- (Rupees One Crore Fifty Nine Lacs only) was agreed to be paid by the purchasers/Complainants at the time of execution and registration of the Sale Deed of the said building on or before 15.03.2019. **9.** That in violation of para 3 of the said Agreement to Sell, both the alleged persons never allowed the Complainants to get the above said rent from the tenants w.e.f. 01.05.2018, instead they have been receiving the said rent alongwith its increment from the tenants from time to time till date causing wrongful gain to themselves whereas, causing wrongful loss to the Complainants, which amount of rent is calculated as Rs. 46,69,000/- (i.e. for 23 months w.e.f. 01.05.2018 till March 2020 @ Rs. 2,03,000/- per month) alongwith the applicable increment to the respective tenants, which amount the Complainants are also entitled to recover from both the alleged persons alongwith interest@ 12% p.a. from the date of receipt of the said rent by them till its realization. **10.** That when both the alleged persons stopped responding to the telephone calls made by the Complainants, the latter were constrained to send them a Letter dated 21.02.2019 (copy enclosed) through registered post vide postal receipts (copy enclosed) for accepting the sale consideration and for execution of the Sale Deed alongwith handing over the* *possession of the said building on or before 15.03.2019, whereas, showing their readiness and willingness with the remaining sale consideration. It is pertinent to mention here that in the aforesaid Letter, a specific request was also made to both the alleged persons to avail Foreclosure from Magma Fincorp Ltd. to deposit full and final payment to get the NOC from the GMADA with a view to get the Sale Deed executed and registered in terms of the said Agreement to Sell. **11**. That another Letter dated 13.03.2019 (copy enclosed) was also got sent by the Complainants through registered post vide postal receipt (copy enclosed) to both the alleged persons showing their inability to get appointment from the concerned office due to non-availability of Aadhaar Card of the said Neeraj Mehta and as such requesting to arrange and provide the same so as to seek and get the appointment for getting the Sale Deed registered. **12**. That the above said Letters were not replied to by both the alleged persons inspite of having received till the last date of execution and registration of the Sale Deed of the said building i.e. 15.03.2019 when the Complainants went to the Office of Sub-Registrar, S.A.S. Nagar, Mohali alongwith the balance sale consideration and necessary expenses to meet out the registration charges, but both the alleged persons did not turn up in the Office of Sub-Registrar, S.A.S. Nagar, Mohali to perform their part of the said Agreement to Sell on 15.03.2019 The Complainants kept on waiting in the Office of the Sub- Registrar, S.A.S.Nagar Mohali alongwith the balance sale consideration and necessary expenses to meet out the registration charges, but both the alleged persons did not turn up in the Office of Sub-Registrar, S.A.S. Nagar, Mohali to perform their part of the said Agreement to Sell on 15.03.2019 The Complainants kept on waiting in the Office of the Sub- Registrar, S.A.S. Nagar, Mohali for both the alleged persons from 9:00 am to 5:00 pm and got their presence marked as per Affidavit (copy enclosed) alongwith its Attestation (copy enclosed) by the Executive Magistrate, S.A.S. Nagar (Mohali), but they did not turn up to perform their part of the obligations arising out of the said Agreement to Sell. **13.** That later after the lapse of the last date of execution and registration of the Sale Deed, the Complainants received reply to their Letter dated 21.02.2019 from both the alleged persons raking up various irrelevant issues and while mis-justifying their illegal acts and deeds and while shifting all their blame upon the Complainants, thus clearly exposing them as to their mala-fide intentions to continue to enjoy the huge amounts given to them as sales consideration alongwith the said huge amount of rent of the said building on the one hand, while* *not doing anything to get the said NOCS inspite of the repeated requests in order to execute and get the Sale Deed registered in the names of the Complainants to their sheer detriment solely with a view to deny them what they have been entitled to for long in terms of the said Agreement to Sell. **14**. That thereafter, the Complainants have been repeatedly requesting both the alleged persons to execute and get the Sale Deed of the said building registered in their favour, but they have been either avoiding or have been postponing the matter on one or the other pretext while asking for more and more money only with no matching intention to execute and get the Sale Deed registered in favour of the Complainants after getting the requisite NOCS. The said balance sale price alongwith necessary expenses for stamp duty have always been lying ready with the Complainants and they have always been ready and willing to perform their part of the said Agreement to Sell and they are still ready and willing to perform their part of the said Agreement to Sell, but instead of paying any heed to the genuine requests of the Complainants, they have been dillydallying the matter endlessly, consequently the Complainants are left with no option but to knock the doors of this august office. Hence the present Complaint. **15.** That both the alleged persons are bound to execute and get the Sale Deed registered in favour of the Complainants after getting the requisite NOCS, whereas, the Complainants are entitled to get the Sale Deed executed and registered in their favour as per the said Agreement to Sell. **16**. That in view of the facts and circumstances mentioned above, it is clear that there has been a continuous breach of the said Agreement to Sell dated 24.04.2018 on the part of both the alleged persons, whereas, the Complainants have always including now been ready and willing alongwith the remaining sales consideration and necessary expenses to execute and get the Sale Deed of the said building registered in their favour to perform their part of obligations as per said Agreement to Sell. **17.** That it is worthwhile to mention here that both the alleged persons have followed the said Agreement to Sell only in its violations. Whereas, the Complainants paid the above said huge and hard earned money to both the alleged persons in the hope to get the fair deal, but it is a matter of regret that inspite of the repeated requests and constant follow ups over the years, the Complainants have never been informed about the true picture while diverting the huge money to other purposes, leaving them in the lurch, who have been running from pillar to post in the evening of their lives. **18.** That both the alleged persons have been taking undue advantage of their own wrongs by shifting the entire blame upon the Complainants whereas, they have* *been themselves guilty by doing their utmost to deny the Complainants what they are entitled to by weaving a concocted story as an after-thought. **19**. That all the acts and conduct of both the alleged persons over the years clearly makes it a case of cheating, criminal conspiracy for which the Complainants is filing the present Complaint without prejudice to their Civil rights. **20.** That recently whenever the Complainant No. 2 has approached both the alleged persons from time to time, they have been misbehaving with him and have been threatening to stay away or face the dire consequences by false implication in some criminal case as they boast of being well connected. In this way, both the alleged persons are very crooked and influential persons. **21.** That recently it has been learnt that both the alleged persons have again been trying to sell the said building to somebody else by cheating as they agreed to sell to the Complainants. **22.** That in this way, both the alleged persons in conspiracy with each other had totally misrepresented, misguided and induced the Complainants by misrepresenting to sell the said building, while concealing their true intention to induce the Complainants to part with huge consideration, thereby, getting wrongful gain to themselves at the cost of wrongful loss to the Complainants. The facts and circumstances of the present case are amply clear whereby criminal action must be initiated against both the alleged persons. In view of the above submissions, it is humbly requested to bring both the alleged persons to book immediately for the offences committed by them by taking the swift and stern necessary action as the age is not by the side of the Complainants. And due protection may also be afforded to them in the interest of justice. Thanking you, Sir, Yours Faithfully, Sd/- GURDEV SAHAI MARWAH"*

4. First transaction concerning the purchase of 50% share of the plot in question by complainant - Gurdev Sahai Marwah, from both the petitioners, commenced with the execution of a Memorandum of Understanding (MOU), dated 31.08.2010 (Annexure P-3), for a total sale consideration of Rs. 4,05,50,000/-. The target date for completion of the transaction was fixed as 31.10.2010. Thereafter, from time to time, fresh agreements were executed and the date for registration and execution of the sale deed was correspondingly extended.

5. At the time of execution of the first MOU, dated 31.08.2010 (Annexure P-3), a sum of Rs.1,00,00,000/- (Rupees One crore) in cash was received by the petitioners as earnest money, on 31.08.2010 itself. As per Clause 3 of the said MOU, the vendee/complainant agreed to exclusively bear and retain the loan component pertaining to its share, including the instalments payable after the stipulated date of the bargain, and the same was agreed to be paid by the vendee/complainant.

Further, as per Clause 12 of the said MOU, it was agreed that in the event the vendee/complainant failed to pay the balance amount, inclusive of the loan amount undertaken by him, by the final date, i.e. 31.10.2010, it would be the prerogative of the first party, i.e. the seller (Petitioner No. 2), either to accept the purchaser's shareholding in proportion to the amount received by the first party - seller or to refund, without interest, the amount received from the purchaser.

6. The aforesaid deal could not mature. Consequently, another agreement to sell, dated 18.11.2010 (Annexure P-4), was executed between the parties, wherein separate terms were recorded and the total sale consideration of the plot was determined as Rs. 3,72,00,000/- (Rupees Three Crores Seventy Two Lakhs only), inclusive of the cash component, which is detailed as under:

> *"1. Memo dated 31.08.2020 Rs. One Crore, Rs.1,00,00,000/- currency notes in cash*
> *2. Memo dated 31.08.2010 Rs. 2,07,00,000/- (Rupees Two Crores Seven Lacs only) Bank Loan dated 18.11.10*
> *3. Rupees Twenty Two Lacs only by cheque No. 249467/160007007/10*
> *4. Rs.4300000/-Cash Dated 18.11.10"*

7. According to the petitioners, the loan amount of Rs.2,07,00,000/- (Rupees Two Crores and Seven Lakhs), payable to the concerned bank, was never paid by the complainant. In fact, the total loan amount outstanding as on 18.11.2010 was approximately Rs.2,65,00,000/- (Rupees Two Crores and Sixty Five Lakhs). In the agreement dated 18.11.2010, it has been recorded that bank loans from S.I.D.B.I. and H.D.F.C. Limited were outstanding and that the instalments thereof were yet to be paid, which were, in fact, undertaken to be paid by the complainant - buyer by depositing the due amounts with the respective banks.

8. Owing to certain reasons, the requisite steps were not undertaken by either side and, consequently, no further action was pursued in this regard. Ultimately, after a period of about eight long years, another agreement to sell, dated 24.04.2018 (Annexure P-1), for sale of 100% share of the property in question, was executed between the parties. Said agreement was also reduced into writing, duly recording all the terms and conditions.

As per agreement dated 24.04.2018 (Annexure P-1), the total sale consideration was fixed at Rs. 6,47,25,000/- (Rupees Six Crores Forty Seven Lakhs and Twenty Five Thousand). Since the time of the first agreement/MoU dated 31.08.2010, certain amounts had already been received by the petitioners. However, at the time of execution of the third agreement to sell dated 24.04.2018, it was agreed that the balance amount payable by the complainant was **Rs.2,15,74,000/-**, and that the petitioners had, by then, received a total sum **of Rs.4,31,51,000**/-.

It was clearly mentioned in the said agreement that, except for the loan with Magma Fincorp Ltd., the property was free from all litigation, claims, charges, and encumbrances. The total outstanding loan amount as on that date was **Rs.1,59,00,000/-**.

Since the terms of the agreement to sell, dated 24.04.2018 (Annexure P-1), are material for consideration, the same are reproduced as under:

> ***"1.*** *That the above said sellers are the joint owners of Built-up Industrial Plot No.D-38 measuring 1416.67 Sq. Yds. (covered area approximate 11000 sq. ft.) Phase-I, Industrial Area, SAS Nagar (Mohali) with all proprietary rights on free hold basis.*
>
> ***2.*** *That the abovesaid property is free from all sorts of litigation, claims, charges, sale, transfer etc. till date, except a loan of Magma Fincorp Limited, which has been obtained by sellers by getting the said plot mortgaged and the total outstanding loan amount comes out to Rs.1,59,00,000/- approximately as on today.*
>
> ***3.*** *That there are two blocks in the said building, the 1st block is consisting of Lower Ground Foor, Upper Ground Floor and First Floor and the 2nd Block has Lower Ground Floor, Upper Ground Floor, First Floor and Second Floor. This building has seven tenants and the rental is Rs.2,03,000/- per month as on today, which the sellers have been receiving from the tenants. The purchasers will be entitled to get this rent directly from the tenants w.e.f.01.05.2018. The approximate area of 6500 sq. ft. is vacant for occupation.*
>
> ***4.*** *That the sellers are the absolute owners of the said entire plot/building by virtue of the sale deed dated 14.08.2003, which they have agreed to sell to the purchasers for which the present agreement to sell is executed.*
>
> ***5.*** *That the total sale price of the said plot including building has been settled as Rs.6,47,25,000/- out of*

which the sellers have received an amount of Rs.2,68,25,000/-.

6. *That the purchasers hereby agree to take over the loan so raised by the sellers as detailed in para 2 above so that the loan accounts could not be declared as Non Performing Assets (NPA). The purchasers hereby agree to pay all the due instalments of the said loan alongwith interest well within time or may repay the entire outstanding amount in one go/lump sum and will provide all receipts to the sellers. The purchasers hereby do agree to clear the entire outstanding loan amount well before the date fixed for execution and registration of the sale deed.*

7. *That the purchasers have paid Rs.10,00,000/- more today to the sellers which the sellers hereby acknowledge.*

8. *That after deducting already paid up amount of Rs.2,78,25,000/- and loan amount of Rs.1,59,00,000/-, the balance outstanding amount comes out to be Rs.2,10,00,000/- as per the settlement.*

9. *That the purchasers hereby do agree to pay this remaining balance sale consideration of Rs.2,10,00,000/- to the sellers on or before 18.07.2018 and the sellers hereby do agree to get the sale deed executed and registered regarding the abovesaid property on or before the said date after receiving the abovesaid amount.*

10. *That if the purchasers fail to clear the outstanding amount of said loan and/or fail to make the payment of balance sale consideration as detailed above uptill the stipulated date mentioned above, the already paid up amount will be forfeited in favour of sellers and agreement will be treated as cancelled. In the event of the failure of the sellers to get the sale deed executed and registered after receiving the balance consideration uptill the date fixed, the purchasers will be entitled to get this agreement enforced through the competent court of law or get double of the amount already paid by them.*

11. *That the purchasers will be free to get the sale deed executed and registered in favour of their own names or in the name of any other person of their choice.*

The possession of the said plot including building would be handed over to the purchasers at the time of execution and registration of the sale deed.

12. *That the sellers have agreed to provide "No Objection Certificate" and other necessary documents to the purchasers for completion of sale.*

13. *That this deal has been finalized with best effort of Sh. Rajesh Kumar Proprietor of M/s SATAYA Consultant, # 52 Block-G, Shivalik Vihar, Naya Gaon, District SAS Nagar to whom both the parties shall pay 2% commission each on the total sale price.*

Seller	*Purchaser*
Sd/-	*Sd/-*
Neeraj Mehta s/o Sh.Surinder Mehta, R/o House No. 1276, Sector 18-C, Chandigarh	*Smt. Kamal Kanta Marwah wife of Late Sh. Sardari Lal Marwah, resident of Rt.1, Box 108, Phillipsburg, Kansas, 67661, USA now at 2603, N Street, Belleville, Kansas USA 66935 through G.P.A Holder Sh. Gurdev Sahai Marwah, son of Sh. Mehar Chand Marwah, resident of House No.3407, Sector 23-D Chandigarh*
Sd/-	*Sd/-*
Smt. Renu Mehta w/o Sh. Neeraj Mehta, R/o House No.1276, Sector 18-C, Chandigarh	*Sh. Gurdev Sahai Marwah son of Sh. Mehar Chand Marwah R/o House No.3407, Sector 23-D Chandigarh*
Witness No.1	*Witness No.2*
Sd/-	
Rajesh s/o Sh. Prem Dass, R/o H.No.52, Block-G, Shivalik Vihar, Naya Gaon, Tehsil Kharar, District Mohali-160103	*Rajiv Malhotra son of Sh. R.P. Malhotra, resident of House No.899, Sector 8 Panchkula.*

Sd/-"

9. Referring to the above terms of the third agreement dated 24.04.2018 (Annexure P-1), Mr. Sant Pal Singh Sidhu, learned Senior counsel for the petitioners, argued that, in fact, the dispute in hand is entirely civil in nature and does not involve any criminality. Since the

year 2010, the burden and responsibility to payback the loan liability was wholly undertaken by the complainant, which he failed to discharge. Consequently, it is the complainant who failed to abide by the terms of the agreement, which resulted in an increase in the interest component of the bank loan. The entire loan amount, including interest, was required to be paid by the complainant so as to enable the petitioners to obtain a No Objection Certificate (NOC) from the concerned authorities, which was one of the conditions stipulated in the agreement.

10. Learned Senior counsel also argued that until the complete loan amount is paid by the complainant, it does not lie in his mouth to allege that the petitioners failed to transfer the plot in accordance with the agreed terms. He further argued that civil proceedings in two separate civil suits are going on. One civil suit, titled as ***Gurdev Sahai Marwaha and another Vs. Estate Officer, GMADA, Mohali and others,*** dated 28.02.2022 (P-12), was instituted by the complainant party wherein present petitioners were arrayed as defendants No.3 and 4. In the said suit the complainant sought for a direction to defendant Nos. 1 and 2 (GMADA) for issuing the NOC in regard to sale of 100% built up Plot No.D-38, Block A, Industrial Area, Phase I, Mohali, in their favour, as was applied by the petitioners vide their application No.16484, dated 25.09.2018.

Referring to the said suit, learned Senior counsel argued that as per the pleaded case of the complainant before the Civil Court the question regarding issuance of NOC at the instance of GMADA is till date subjudice, despite the required application having been moved by the petitioners.

Another Civil Suit No.269/2024, instituted on 06.04.2024, titled as, ***Smt. Kamal Kanta Marwah and another Vs. Neeraj Mehta and others,*** for possession by way of specific performance of agreement to sell dated 24.04.2018, has also been filed by the complainant party, for directing defendant Nos.1 and 2 (petitioners herein) to execute the sale deed in favour of the complainant/plaintiff(s) or in the alternative to grant the double of the earnest money received by them upto 24.04.2018, to the tune of Rs.3,26,12,000/-. According to learned Senior counsel for the petitioners, the said suit is also pending before the competent Civil Court at S.A.S. Nagar (Mohali).

11. Learned Senior counsel, thus, submitted that the issues involved are required to be adjudicated by the Civil Court, including, whether there has been any violation of the terms and conditions of the sale agreement and, if so, by which party, and whether any mandate can be issued for decreeing or dismissing the suit. It is, therefore, argued that the rights of the parties are required to be established through civil proceedings and not by way of prosecution in a criminal case.

12. Mr. Sant Pal Singh Sidhu, learned Senior Counsel, further argued that when the complainant neither paid the balance amount nor got relieved from the bank loan, the interest on the loan continued to accumulate. Consequently, to manage the situation, the petitioners were compelled to sell their One Kanal house, situated in a prime location in Chandigarh.

Learned Senior counsel also brought to the notice of this Court that at the first instance, the petitioners had issued a registered notice dated 13.11.2018 (Annexure P-7), through Mr. Jitesh Sharma, Advocate, calling upon the complainant to make the balance payment on or before 26.11.2018 and to appear at the office of the Sub-Registrar, Mohali, after giving due intimation to the petitioners. However, no intimation was ever forwarded, nor was the balance amount paid by the complainant.

13. Mr. Sant Pal Singh Sidhu, learned Senior counsel for the petitioners, also referred to the affidavit dated 26.11.2018 (Annexure P-8), demonstrating the petitioners' presence at the office of the Sub-Registrar, Mohali, which clearly establishes their readiness to execute the sale deed even on 26.11.2018. Referring to the letter dated 21.02.2019, addressed by the complainant to the petitioners, wherein the complainant purportedly gave the option to execute the sale deed by 15.03.2019, learned Senior Counsel argued that no such intimation was ever actually sent, nor was this fact mentioned in the FIR lodged by the complainant in 2022. Therefore, the purported intimation is not believable.

He also pointed out that in a letter dated 12.03.2019 (Annexure P-10), the complainants were apprised of the losses suffered by the petitioners due to partial payment. The letter also indicated that the petitioners had put up their house in Sector 18, Chandigarh, for sale, and informed the complainant that it was sold on 04.03.2019, under compelling circumstances. The petitioners had no other alternative but to sell the house to discharge the bank loan, as the complainant had failed to pay the complete sale consideration.

14. Referring to the judgments of the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273**, and ***Satender Kumar Antil v. Central Bureau of Investigation and another*, AIR 2022 SC 3386**, Mr. Sidhu, learned Senior Advocate, argued that, considering the allegations against the petitioners, under Sections 420 and 406 IPC, no notice under Section 41 Cr.P.C. (corresponding to Section 35 of the BNSS) was ever issued to them, despite the offences being punishable with a maximum sentence of seven years. He submits that, in the absence of any criminality, the petitioners are entitled to the grant of anticipatory bail.

15. On the other hand, Mr. Neeraj Madaan, learned Senior Deputy Advocate General, Punjab, and Mr. G.C. Dhuriwala, Advocate, learned counsel representing the complainant, argued that present is a clear case of fraud committed by the petitioners against the purchaser/complainant. It is alleged that the petitioners wrongfully retained the amount more than of Rs.4,31,51,000/-, by receiving in parts since the year 2010 and, despite receiving such a substantial sum, never provided the 'No Objection Certificate' (NOC) for the property, which was necessary for the purchaser to deposit his share of the balance loan amount and obtain the registry in his favour.

It was further contended that these actions were undertaken with malafide intention, amounting to a deliberate attempt to defraud the complainant, who had assisted the petitioners in their time of need by paying a significant sum under the promise of sale/transfer the industrial plot, which the petitioners had proposed to sell to him.

Mr. Neeraj Madaan and Mr. G.C. Dhuriwala also argued that the petitioners' intention was not *bona fide* from the outset. This is evident from the terms of the agreement to sell, which stipulated that certain tenants were occupying the premises and that the rent from the property would be received by the complainant - buyer to offset the interest component of the substantial amount already paid.

In this regard, Mr. G.C. Dhuriwala, learned counsel for the complainant highlighted that as per terms of the agreement, dated 24.04.2018 (Annexure P-1), the complainant was also entitled to receive the amount of monthly rent of Rs.2,03,000/- per month from the tenants w.e.f. 01.05.2018. However, the same was never paid to him and during the interregnum period of about 91 months, the total rental value comes to Rs.1,84,73,000/-. This shows *mala fide* intention of the petitioners that they were never inclined to mature the deal and the amount in parts has been received by them with the sole purpose to dupe the complainant. Thus, prays that the complainant is also entitled for the said amount of Rs.1,84,73,000/- from the petitioners.

In view of these circumstances, prayer for dismissing the present anticipatory bail petition has been made.

16. I have heard learned counsel for the parties and also examined the petition as well as the documents appended thereto.

17. Admittedly, the ownership of the plot, with each petitioner holding a 50% share (total 100%), is not in dispute. There is no denial

regarding the execution of the Memorandum of Understanding dated 31.08.2010, followed by the second agreement to sell dated 18.11.2010, and the third agreement to sell executed on 24.04.2018, which included extensions of time for registration up to 15.03.2019. Similarly, the petitioners do not dispute that they have received the amounts on several occasions from the complainant. However, the exact figures of the amounts paid and received do not match, as the petitioners dispute having received amounts of Rs.43,00,000/- on 18.11.2010, Rs.47,87,000/- on 21.06.2018, and Rs.14,50,000/- on 27.12.2018.

18. It is also noticed that none of the factual aspects mentioned in all the three agreements to sell/MOU, right from the year 2010, or the payments received by the petitioners, are under dispute. Broadly, the issue raised pertains to the intent of the parties, specifically as to which party backed out from executing the sale deed, which was finally agreed upon through the agreement to sell dated 24.04.2018 (Annexure P-1).

19. Perusal of the orders passed by this Court during the pendency of the instant petition reveals that, while issuing notice, arrest of the petitioners was stayed, vide order dated 23.05.2022, and the said interim relief continues to remain in force till date.

Even during the pendency of the present anticipatory bail petition, efforts were made on more than one occasion to resolve the dispute amicably; however, all such efforts failed. It is also an admitted position that the allegations sought to be established by the prosecution require support primarily through documentary evidence rather than mere verbal assertions.

20. This Court has also considered the manner in which the FIR (supra) was got registered by the complainant, and also taken note of the correspondence exchanged between the parties during 2018 - 2019. The FIR in the instant case was registered much later, i.e. on 21.04.2022. Admittedly, a suit for specific performance seeking possession has already been filed by the complainant, which is pending. Nevertheless, apart from the complainant's contention that a substantial sum of Rs.4,31,51,000/- has passed from the complainant's pocket to that of the petitioners, the entitlement to rent at the rate of Rs.2,03,000/- per month for 91 months, amounting to Rs.1,84,73,000/-, cannot be ignored.

Therefore, while deciding the instant bail petition, this Court must remain mindful of the principles of equity and ensure that the scales of justice are balanced fairly between the parties.

21. In the case of **Subhelal @ Sushil Sahu v. State of Chhattisgarh, (2025) 5 SCC 140** (decided on 18.02.2025), their Lordships' of Hon'ble the Supreme Court (J.B. Pardiwala and R. Mahadevan, JJ.) were dealing with a request for grant of regular bail to the appellant in a magisterial trial relating to a cryptocurrency scam, involving an amount of approximately ₹4 crores. Nearly 2,000 investors had lost their money in the scheme floated by the accused in the said case.

After filing of the charge sheet, only **01** witness had been examined out of a total of **189** prosecution witnesses, and the accused, Subhelal @ Sushil Sahu, had been in custody since December 2023. The trial had not been completed within the time-bound period prescribed under Section 437(6) of the Cr.P.C., from the date of recording of the first evidence.

Considering these aspects, and while imposing a condition of deposit of ₹35 lakhs (Rupees Thirty-Five Lakhs) within a stipulated time, the Hon'ble Supreme Court ordered the release of the accused/appellant on bail. Paragraph Nos. 22 to 28 of the judgment reads as under:

> "***22.*** *In the overall view of the matter, we are convinced that the appellant deserves to be released on bail, subject to certain terms and conditions as may be imposed by the trial court. It is ordered accordingly.*
>
> ***23.*** *However, we on our own would like to impose one condition.*
>
> ***24.*** *According to the learned counsel appearing for the appellant herein, the total amount involved in the alleged scam is approximately Rs 4 crores but he attributes about Rs 35 lakhs to the appellant herein.*
>
> ***25.*** *For the purpose of bail and in the peculiar facts and circumstances of the case, we direct the appellant herein to deposit an amount of Rs 35,00,000 (Rupees 35 lakhs) with the trial court within a period of six months from today.*
>
> ***26.*** *We are conscious of the fact that we have been condemning the High Courts when they impose such conditions. But here is a case wherein we are compelled to impose such conditions having regard to the peculiar facts of this case.*
>
> ***27.*** *We make it clear that within the time period of 6 months, if the amount is not deposited by the appellant, this bail shall stand automatically cancelled.*
>
> ***28.*** *The appeal is allowed in the aforesaid terms. Pending applications, if any, shall also stand disposed of.*"

From the reading of the observations made in the judgement rendered in the case of **Subhelal @ Sushil Sahu's (supra)**, it is discernible that their Lordships' of Hon'ble the Apex Court were mindful of the settled proposition that courts should not impose financial deposits or undertakings by accused persons, as conditions for grant of bail, and that the bail must be decided strictly on merits of the case. Still, considering the peculiar facts of that case, Hon'ble Apex Court was compelled to impose the condition of deposit of Rs. 35,00,000/- with the trial court within a period of six months.

22. When the factual aspects in the case of **Subhelal @ Sushil Sahu (supra)** and that of the present case are compared, it may be seen that in the present case from the complainant party alone, an amount of Rs. 4,31,51,000/- (Rupees Four Crores Thirty One Lakhs and Fifty One Thousand) has gone to the bounty of the petitioners herein, whereas in the matter of **Subhelal @ Sushil Sahu (supra),** nearly 2000 investors were there, who were targeted in a cryptocurrency scam involving an amount of approximately Rs. 4,00,00,000/- (Rupees Four Crores).

23. Taking note of the circumstances of the present case in its' entirety, this Court is required to deal with the same in different perspective than other bail petitions, where in the normal course, the deposit of an amount cannot be made a condition for the grant of protection from arrest. As already noticed hereabove, the present situation is somewhat different.

24. Mr. Sant Pal Singh Sidhu, learned Senior counsel for the petitioners, submitted that if anticipatory bail is not granted, custodial interrogation cannot be compelled unless the investigating officer provides specific reasons for arrest, in view of the judgments rendered in

the cases of **Arnesh Kumar (supra)** and **Satender Kumar Antil (supra)**. This is particularly so because the allegations are yet to be established, and no disputed facts have been found except for the real intent of the parties.

25. This Court is conscious of the fact that till date, there is no offer or undertaking by the petitioners before this Court to deposit the amount received by them, if the present petition is allowed, and it is the complainant party only, aged about 90 years (as told by Mr. G.C. Dhuriwala, Advocate, during course of hearing), who would inevitably be at risk of suffering a big monetary loss of the substantial amount of Rs.4,31,51,000/-, which allegedly has been paid in parts, starting from the year 2010. Therefore, to meet the ends of justice, as also to maintain the principle of equity, it would be appropriate to direct the petitioners to deposit a particular amount, and permit them to join the investigation also, within two weeks from today, or as and when required by the Investigating Agency upon issuance of a valid notice by the Investigating Officer. In case, the petitioners fail to do so, the concession of bail shall be deemed to have become inoperative.

26. Upon joining the investigation and in case of arrest of the petitioners, they shall be released on bail, subject to furnishing bail bonds to the satisfaction of the Arresting Officer. They shall also comply with all the conditions laid down under Section 482(2) of BNSS, 2023.

27. So, the concession of bail is further subject to deposit of an amount of **Rs.4,00,00,000/-(Rupees Four Crores)**, in the Court of the Area Magistrate or with the Investigating Officer in the form of a Fixed

Deposit Receipt (FDR) from a nationalized bank, wherever dispute remains pending, within in a period of six months from today. Petitioners are directed to ensure that the said FDR is renewed at least one week prior to its expiry, until such time as it is encashed by the concerned party.

It is further clarified that the FDR with its matured amount shall be encashed by the concerned party subject to the final decision in the case by the competent court, or alternatively, if the dispute is resolved amicably between the parties.

28. Further, the present order is subject to the submission of their passports, if possessed, to the Investigating Agency or the concerned Court within one week from today. In case they do not possess a passport, they shall submit an affidavit disclosing the same. Failure to comply with this condition shall render this order automatically inoperative.

However, there would be liberty with the petitioners to seek prior permission from the concerned Court, before visiting abroad by explaining the need and reasons for it.

29. Since the purchaser/complainant party is aged about 90 years, and has already paid a hefty amount to the petitioners, direction is issued that investigation be completed at the earliest and if final report is presented against the accused, Trial Court would decide the case finally within next one year.

30. Accordingly, with the terms and conditions recorded hereabove, **present petition is allowed**.

Since the main case itself has been disposed of, criminal miscellaneous application, bearing No. CRM-49926-2025, filed by the complainant, is rendered infructuous and no separate orders are required to be passed therein. Same is disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

December 22, 2025
rashmi/Pkapoor

Whether Speaking/Reasoned: ✓ **YES/~~NO~~**
Whether Reportable: ✓ **YES/~~NO~~**