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

CRM-M-20909-2025
Decided on:29.05.2025

Achal Jain .... Petitioner

versus

State of Haryana .... Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.K.Garg Narwana, Sr. Advocate with
Mr. Vishal Garg Narwana, Advocate and
Mr. Mukul Ahuja, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

Mr. Gautam Dutt, Advocate for the complainant.

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<u>Sandeep Moudgil, J. (Oral)</u>

1. **<u>Prayer</u>**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.206, Dated 08.12.2024, registered under Sections 406, 420 IPC at Police Station Sector 20, District Panchkula.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

> *"Copy of the writing is as follows that one complaint No. 316-CP-PKL-DARBAR-NA Dated 10.08.2024 after inquiry of Economic Offence Branch Panchkula and after opinion of District Attorney and after orders of senior officers was received in the police station for registration of the case, the contents of the complaint are as follows, To The Commissioner of Police Panchkula Subject: Criminal Complaint against accused Anchal Jain son of Shri Mohinder Jain, resident of House No. 186, Sector-9 Ambala City, Ambala, Haryana, Mobile No.9996199999, 9812800700 for committing criminal breach of trust, cheating, fraud in a pre-planned conspiracy and*

misappropriating a sum of 17,00,000/- from the complainant and threatening the complainant to implicate him in false and fabricated criminal cases and further extending threats to eliminate/face dire consequences. Sir, The complainant respectfully and humbly submits as under 1. That I, Sunil Kumar Beniwal son of Shri Baljeet Singh, am resident of House No. 1512, Sector 15, Panchkula. 2. That the complainant wanted to purchase a land in Ludhiana and in this regard, the complainant was visiting many property dealers to purchase the land. In pursuance of his search to buy a good piece of land, complainant came in contact of accused in Panchkula. The accused took the complainant and his wife at Noorpur Bet (Ludhiana) in his own Innova Crysta car and showed a piece of land of 1/2 acre situated at Noorpur Bet, District Ludhiana, Punjab. The accused told to the complainant that he is owner-in-possession of the said land and he further stated that the said land is free from any sort of encumbrances and he is the only owner of the said land. The complainant believed the version of the accused and asked him to show the property papers, on this the accused showed photocoples of the jamabandis and fard in his mobile phone, wherein the name of the accused was mentioned therein. When the complainant asked about the original documents, then accused allured and induced the complainant by telling to the complainant that he has his own kothi, one petrol pump, one huge rice mill in Ambala City, Haryana and belongs to a reputed family and he will hand over the documents/property papers to him later on. Believing on the said assurance, Complainant paid a sum of 17,00,000/-(Rupees Seventeen Lacs) i.e. 11,00,000/- in cash against the receipt made at Plot No.81, Phase-II, Industrial Area, Panchkula at 7 PM on 29.11.2022 and rupees 6,00,000/- through RTGS on 29.11.2022 from the account of his wife as token money to the accused, out of the total agreed sale consideration amount of Rupees 1,09,00,000/-(Rupees One Crore Nine Lakh Only). (A copy of receipt is attached). 3. That to execute agreement to sell, complainant requested the accused to show the original property papers but the accused lingered on the matter on one pretext or the other. The complainant felt some foul play and then inspected about the ownership of the said property and was utter shocked and surprised to know that the accused is not the original owner of the said property and he has shown forged and fabricated fard/jamabandies and sold out the land of some other person by impersonating himself as owner *and has committed cheating, breach of trust and further committed fraud with the complainant 4.On this complainant contacted the accused and told him that he is not the original owner of the said property and asked him about the reason for cheating and committing fraud with complainant, but upon this the accused has not given any satisfactory reply to the complainant. The complainant through whatsapp chat from 29.11.2022 to 20.05.2024 many times requested to the accused to return back the said amount of Rupees 17,00,000/- and on this, the accused assured the complainant to return the said amount of Rupees 17,00,000/- alongwith 24% interest per annum 1.e. Rupees 6,80,000/- from December, 2022 to July, 2024, total amounting to 23,80,000/- upto July, 2024. As the complainant is in need of his hard earned money as the complainant is constructing his factory in Industrial Area, Phase-II, Panchkula and made request to the accused to return back the said amount but the accused did not give any heed to the request of the complainant. Regarding this, the complainant has numerous call recordings and the same will be produced by the complainant as and when required by the police. 5. That the complainant again contacted the accused and requested the accused to return back said amount of Rupees 23,80,000/- upon this the accused threatened the complainant that he has high political links and Influence over the local administration and he will get implicated the complainant in false criminal cases and further threatened the complainant that if complainant again contacted the accused and made demand for his money, then he will be eliminated and face dire consequences. 6. That the accused has breached trust of complainant and committed cheating and fraud in a pre-planned manner and now further threatened the complainant that he will implicate the complainant in false cases and further extended the threats of extreme dire consequences to the complainant. Accused came to know that is a habitual offender and has committed criminal breach of trust, fraud and cheating with many other persons in Mohali. Your goodself is requested to look into the matter and a strict legal action may kindly be taken against the accused, namely, Anchal Jain son of Shri Mohinder Jain, resident of House No. 186, Sector 9, Ambala City, Ambala, Haryana and an F.I.R. be registered against him for committing criminal breach of trust, cheating, fraud under a pre-planned conspiracy and grabbing a sum of Rupees 17,00,000/- from the complainant and threatening the complainant to implicate him in*

> *false criminal cases and further extending threats to eliminate and to face dire consequences. Your goodself further requested to recover the money paid by the complainant from the accused. Complainant (sd/- sunil 02.08.2024) Sunil Kumar Beniwal son of Shri Baljeet Singh, resident of House No.1512, Sector-15, Panchkula. Mobile No.92161-81081"*

3. **Contentions**

On behalf of the petitioner

Learned Senior counsel for the petitioner submits that there is a delay of two years in lodging the present FIR. While referring to Annexure P-2, copy of whatsapp chat/message from 04.03.2023 he contends that the complainant gave a friendly loan of Rs.6 lakhs to the petitioner, which were transferred by wife of the complainant in account of the petitioner. Learned Senior counsel further submits that in order to extort exorbitant interest @ 24% from the petitioner, complainant propounded a false story that he paid Rs.11 lakh in cash to the petitioner along with Rs.6 lakhs by way of online transfer. He further submits that on refusal of the petitioner to pay the exorbitant interest, the complainant filed the present FIR. He undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

Notice of motion.

On behalf of the State/complainant

Mr. Chetan Sharma, DAG, Haryana having been served with an advance copy, accepts notice on behalf of respondent/State.

Learned counsel for the complainant submits that the complainant paid Rs.11 lakhs in cash in the presence of his brother-in-law namely Pawan Jain, however, there is no other person present on behalf of the petitioner. In support of his submission, he has also produced the copy of inquiry which was signed by the petitioner himself wherein he admitted that he has actually received Rs.11 lakhs in cash along with Rs.6 lakhs through

RTGS in the bank account from the account of the wife of the complainant. Same is taken on record as document ‘A’.

4. **Analysis**

Be that as it may having regard to the fact that according to the complainant himself Rs.11 lakhs were paid in cash to the petitioner to which no cogent evidence is coming forth and the said fact cannot be considered at this stage and will be considered at the time of examining the evidence though the petitioner is admitting that only Rs.6 lakhs were paid to him through RTGS as alleged to be taken as token money for total sale consideration of Rs.1 crore 19 lakhs.

This Court would not go into the factual dispute as to whether Rs.11 lakhs was paid by the complainant or not but subject to the condition that the petitioner would pay Rs.4 lakhs by way of demand draft/RTGS in favour of the complainant at the time of joining the investigation, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

> ‘*When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
>
> *(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
>
> *(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to*

dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

29.05.2025 **(SANDEEP MOUDGIL)**
sonia **JUDGE**

Whether speaking/non-speaking? Yes/No
Whether reportable? Yes/No