IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(102) CRM-M-26896-2025 (O&M)
Raghav Kaushik ..... Petitioner

Versus

State of Haryana and another ......Respondents

(103) CRM-M-28215-2025

Asha Kaushik ..... Petitioner

Versus

State of Haryana and another ......Respondents

(104) CRM-M-28565-2025

Dharmender Kumar ..... Petitioner

Versus

State of Haryana and another ......Respondents

Decided on: 26.05.2025

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. J.S. Mehndiratta, Advocate,
Mr. Arnav Ghai, Advocate and
Mr. R.S. Bagga, Advocate, and
Mr. Rajesh Lamba, Advocate, for the petitioners.

Mr. Sumit Jain, Addl. AG, Haryana.

Mr. Rakesh Nehra, Sr. Advocate with
Mr. Sahil Nehra, Advocate, for the complainant.

Rajesh Bhardwaj, J.

CRM-21073-2025 in
CRM-M-26896-2025

Prayer in the present application under Section 528 BNSS is for impleading the complainant as respondent No.2.

Notice in the application.

Mr. Sumit Jain, Addl. AG, Haryana, accepts notice on behalf of the State and pleads no objection, if the present application is allowed.

After hearing learned counsel for the parties and for the reasons mentioned in the application, the same is allowed. Complainant is ordered to be impleaded as respondent No.2 in CRM-M-26896-2025.

Amended memo of parties annexed with the application is taken on record.

Main cases

1. This order will dispose of above-mentioned three petitions as the same have arisen out of a common FIR.

2. Prayer in the present petitions is for grant of anticipatory bail to the petitioners in a case FIR No.103 dated 21.03.2025, registered under Sections 420 and 34 IPC, at Police Station Rajendra Park, District Gurugram.

3. Succinctly facts of the case are that the FIR in the present case was registered on the statement of the complainant, namely, Ajit Yadav. It was alleged that in November, 2023, Dharmender Kumar (petitioner in CRM-M-28565-2025) and one Manoj Yadav approached him for selling his land measuring 78 Kanals 8 Marlas situated within the Municipal limit of Farukhnagar Committee. He was shown copy of the compromise deed between Dharmender Kumar and Asha Kaushik (petitioner in CRM-M-28215-2025) i.e. previous owner of the land and copy of sale deed executed between him and Asha Kaushik for the land measuring 78 Kanals 8 Marlas to which Raghav Kaushik (petitioner in CRM-M-26896-2025) son of Asha Kaushik was an attesting witness. On showing all the relevant documents, the complainant was convinced by Dharmender Kumar that he was the exclusive owner of the land in question, which was free from all encumbrances. Resultantly, the complainant agreed to buy this land at the rate of Rs.5,10,00,000/- per acre. As per the condition made by Dharmender

Kumar, the amount at the rate of 3,00,00,000/- per acre was to be transferred in his account, whereas, the amount at the rate of Rs.2,10,00,000/- was to be paid to him in cash. Thus, Rs.11,00,000/- was given by the complainant as token amount. On 20.11.2023, the complainant purchased requisite stamp papers for the purpose of executing the agreement to sell. However, accused Dharmender Kumar refused to execute the sale deed. Accused Dharmender Kumar assured the complainant regarding the execution of sale deed and thus, he purchased stamp papers amounting to Rs.1,89,00,000/- and Rs.15,00,000/-. On the insistence of the complainant for executing the sale deed, accused Dharmender Kumar made an excuse that there was some issue in making of property ID and demanded more money from the complainant showing some urgency. The complainant paid an amount of Rs.7.5. crores in cash to Dharmender Kumar on 18.01.2024, which was duly acknowledged by him through Whatsapp message. On 19.01.2024, two RTGS of Rs.50 lacs each were made by the complainant. Thereafter, on 24.01.2024, ID of the property was created and for executing the sale deed, the date was fixed for 25.01.2024. This date was also avoided by accused Dharmender Kumar on some excuses and the same was postponed for 29.01.2024. On 29.01.2024, the complainant paid an amount of Rs.10,40,00,000/- to Dharmender Kumar, acknowledgment of which was sent through whatsapp message. For the rest amount, PDC cheques were issued to Dharmender Kumar. However, accused Dharmender Kumar did not turn up for the execution of sale deed and date was again postponed for 31.01.2024. The complainant tried to contact accused Dharmender Kumar, however, his mobile number was found to be switched off. It was alleged by the complainant that till 02.02.2024, he paid a total amount of Rs.20 crores to accused Dharmender Kumar and receipt of the acknowledgment was also sent on whatsapp. He also alleged that regarding the payment of Rs.20 crores, he had an audio clip as well. Hereinafter, the date of execution of the sale deed was fixed for 05.02.2024 and thus, for the execution of the sale deed they approached the office of Tehsildar, Farukhnagar. However, when they were in the process of completing the formalities for the execution of the sale deed, Clerk of the Tehsildar verified the record of the land in question and it was brought to their notice that a civil suit regarding this land is pending and as per order dated 16.01.2024, alienation of this land has been stayed by learned Civil Court. Title of the civil suit was found to be Raghav Kaushik vs. Asha Kaushik and Dharmender Kumar. It was revealed from the record that the civil suit was instituted by plaintiff- Raghav Kaushik against his mother Asha Kaushik and Dharmender Kumar on 12.01.2024, which was adjourned for 16.01.2024. Dharmender Kumar and Asha Kaushik appeared in the civil suit and the case was adjourned for 16.03.2024. It was alleged by the complainant that accused Dharmender Kumar despite being the defendant in the civil suit and the stay order having been granted by the Civil Court, kept taking heavy amount from him in order to frustrate the execution of the sale deed in conspiracy with Asha Kaushik and Raghav Kaushik. The complainant alleged that Asha Kaushik is mother of Raghav Kaushik, who had executed the sale deed on 20.04.2021 in favour of the Dharmender Kumar without being the owner of the land, to which her son Raghav Kaushik was the attesting witness. Despite knowing the ongoing transactions with Dharmender Kumar, all three accused clandestinely filed the civil suit only in order to usurp heavy amount of Rs.20 crores paid as consideration for purchase of the land. He alleged that on realising the conspiracy played by all three accused, the complainant warned them for initiating legal action against them. On hearing the same, accused withdrew the civil suit on 27.07.2024. The complainant further alleged that all the three accused in a well hatched conspiracy with each other had cheated the complainant and usurped Rs.20 Crores paid by him. Thus, he requested for taking legal action against all the accused. On the registration of the FIR, the investigation commenced. Apprehending arrest, the petitioners approached the Court of learned Additional Sessions Judge, Gurugram praying for grant of anticipatory bail. However, on hearing, learned Court dismissed the bail petitions filed by the petitioners vide orders dated 29.04.2025 and 09.05.2025. Hence, aggrieved by the same, the petitioners are before this Court by way of filing the present petitions for grant of anticipatory bail.

4. Learned Senior Counsel for the petitioners has vehemently contended before this Court that it is not the complainant, but the petitioners who are the victims. He has submitted that petitioner Asha Kaushik had entered into an agreement to sell with petitioner Dharmender Kumar for land in question on 26.04.2013, which was to be executed by 25.10.2013. However, on 31.12.2013, notification under Section 4 of the Land Acquisition Act, 1894 was issued by the State of Haryana for acquisition of the land. He has submitted that Dharmender Kumar filed a civil suit in July, 2016, which was withdrawn on 31.08.2016. Thereafter, the State

Government issued a notification in January 2017 deciding not to acquire the land. Petitioner Dharmender Kumar again filed a civil suit in the year 2017 for specific performance. He has submitted that on 17.02.2017, petitioner Asha Kushik executed a relinquish deed in favour of her son Raghav Kaushik and thereafter, on 20.04.2021, she executed a sale deed in favour of Dharmender Kumar, which was attested by her son Raghav Kaushik and the civil suit filed by Dharmender Kumar was withdrawn by him on 09.03.2022. He has submitted that after entering into the agreement with petitioner Dharmender Kumar, the complainant further entered into an agreement with Amit Goyal owner of SHF Square. As the agreement entered into between the complainant with Amit Goyal did not fructify, Amit Goyal filed a complaint against the complainant and all the petitioners on 18.04.2024. He has submitted that on 22.04.2024, the complainant also filed a complaint against all the three petitioners. He submits that the Economic Offence Wing carried out enquiry in the complaint filed by Amit Goyal and it is apparent from the enquiry conducted that petitioner Dharmender Kumar paid Rs.9,80,00,000/- to SHF Square owned by Amit Goyal and cheque of Rs.1 crore dated 10.09.2024 was paid to Amit Goyal in lieu of interest which he had to bear on account of bank loan. It is further evident from the enquiry conducted that complainant Ajit Yadav and his son Nishit Yadav received Rs.8,95,00,000/- from the account of company SHF square and Dr. Suman Yadav and Rs.2,05,00,006/- through stamp papers. It is submitted that from the enquiry conducted, it is apparent that on account of the compromise arrived between the parties, the matter was resolved and it was requested that no police action is required in the complaint filed. He submits that it is apparent from the eqnuiry conducted in the complaint filed by the complainant, Ajit Yadav that all the parties were duly joined and thus, it was concluded by the Economic Offence Wing in its report dated 23.08.2024 that the matter relates to money transaction and no cognizable offence is found to have been made out and thus, the complaint was filed.

Learned Senior counsel has further argued that the allegations made in the FIR are totally premeditated and fabricated. He argued that there was no written agreement entered into between the complainant and petitioner Dharmender Kumar and without disclosing any source of amount as alleged, the petitioners have been roped in the present FIR. He submits that from the enquiry conducted, it is apparent that the amount received by petitioner Dharmender Kumar had already been repaid, which is evident from the enquiry conducted wherein, it has been found that petitioner Dharmender Kumar returned amount about Rs.10 crores to Amit Goyal alongwith interest as per the agreement arrived between both the sides. He submits that petitioners Asha Kaushik and Raghav Kaushik have been falsely dragged in the present case as neither they entered into agreement with the complainant nor they received any amount from the complainant. He submits that filing of civil suit by Raghav Kaushik does not constitute any offence against him. He submits that from the facts and circumstances of the present case, no *prima facie* office as alleged has been made out against all three petitioners. He further submits that the dispute, if at all among the parties, is only of civil nature, which has been intentionally given colour of criminal nature only in order to harass the petitioners. He, thus, submits that the petitioners deserve to be granted anticipatory bail.

5. Per contra, learned Senior Counsel for the complainant has vehemently opposed the submissions made by Senior Counsel for the petitioners. He has submitted that the complainant has fallen victim to a well hatched conspiracy played by all the accused-petitioners. He submits that the complainant was ensured by petitioner -Dharmender Kumar on showing all the documents that the land is free from all the encumbrances and thus, an oral agreement was entered into between petitioner-Dharmender Kumar and the complainant. He submits that per the agreement arrived, the complainant not only paid the part payment, but also purchased the stamp papers for the execution of the sale deed. The accused-petitioners kept on avoiding for execution of the sale deed on one pretext or the other, however, on the other hand, they kept on taking the amount of consideration from the complainant on the assurance that the sale deed would be executed. He submits that by 02.02.2024, a total amount of Rs.20 crores was taken from the complainant by petitioner- Dharmender Kumar, however, finally when the complainant appeared in the office of Tehsildar, Farukhnagar, then it was revealed from the record that a civil suit titled as Raghav Kaushik vs. Asha Kaushik and Dharmender Kumar, has been filed on 12.01.2024, wherein, interim stay against the alienation of the land has been passed by learned Civil Court vide order dated 16.01.2024. He submits that petitioner Dharmender Kumar was the defendant in the civil suit, who had duly appeared before the Civil Court as well. Surprisingly, even after interim order passed by learned Civil Court dated 16.01.2024, petitioner Dharmender Kumar kept accepting the consideration amount for the sale of

this land from the complainant. He submits that the complainant had paid an amount of Rs.10,40,00,000/- to Dharmender Kumar on 29.01.2024, acknowledgment of which was also received through whatsapp message. He has further contended that petitioner Dharmender Kumar was very well aware of filing of the civil suit and interim order dated 16.01.2024 passed by learned Civil Court, but despite that he siphoned off the amount of Rs.20 crores from the complainant knowing the sale deed could not be executed due to the filing of interim order passed in the civil suit. He submits that petitioner Asha Kaushik earlier sold this land to Dharmender Kumar, where her son Raghav Kaushik was attesting witness. He submits that from the facts and circumstances of the present case, it is evident that conspiracy hatched by all three petitioners is duly proved that all three petitioners in order to usurp huge amount of Rs.20 crores from the complainant had filed the civil suit. He submits that petitioner Asha Kaushik is a habitual offender as she is already facing prosecution in an FIR No.395/2022 of similar nature. He submits that the petitioners have cheated the complainant for an amount of Rs.20 crores in a very well hatched conspiracy and thus, *prima facie* offence is made out against the petitioners and hence, no case for anticipatory bail is made out.

6. Learned State counsel has also opposed the submissions made by learned Senior Counsel for the petitioners. He has submitted that the accused-petitioners after hatching conspiracy with each other cheated the complainant with Rs.20 crores. He further submits that petitioner Dharmender Kumar alongwith co-accused knowing the interim order dated 16.01.2024 granted by learned Civil Court, kept on accepting money from

the complainant, which makes a *prima facie* case against them. He, thus, submits that no case for anticipatory bail to the petitioners is made out.

7. The Court has heard learned Senior Counsel for the parties and perused the record with their able assistance. The *prima facie* grievance as culled out from the arguments raised by both the sides is to the effect that the complainant had paid an amount of Rs.20 crores for purchase of land measuring 78 Kanals 8 Marlas from petitioner Dharmender Kumar. The complainant was made to believe that the land was free from all the encumbrances and thus, the complainant paid token amount of Rs.11 lacs. Petitioner Dharmender Kumar avoided entering into any written agreement, however, the complainant was made assure of execution of the sale deed. Thus, the complainant purchased even stamp papers and date of the execution of the sale deed was fixed time and again, but on one pretext or the other, the same was postponed. Finally the complainant was assured of execution of the sale deed and thus, total amount of Rs.20 crores was allegedly taken by petitioner Dharmender Kumar from the complainant by 02.02.2024. However, at the time of execution of the sale deed on 05.02.2024, it is for the first time, status of the land was revealed to the complainant that a civil suit titled as <u>Raghav Kaushik vs. Asha Kaushik and Dharmender Kumar,</u> is pending against the land, wherein alienation of the land in dispute had been stayed by the Civil Court vide interim order dated 16.01.2024. On the perusal of the record, it is evident that payment was made to petitioner Dharmender Kumar after passing the interim order dated 16.01.2024 by the Civil Court. Ignorance of the same as contended by petitioner Dharmender Kumar cannot be accepted in the light of the

admitted fact that petitioner Raghav Kaushik was the plaintiff in the civil suit, whereas, Asha Kaushik and Dharmender Kumar are the defendants in the same and all the parties had duly appeared in the civil suit and thus, the interim order passed was well within the knowledge of all the petitioners. This civil suit lateron had been withdrawn by petitioner Raghav Kaushik. As per record, petitioner Asha Kaushik had earlier executed a sale deed in favour of petitioner Dharmender Kumar and her son Raghav Kaushik was the attesting witness to the same. Hence, *prima facie* meeting of mind of all the three petitioners is found to have been made.

8. Submission made by learned Senior Counsel for the petitioners that petitioner Dharmender Kumar repaid the amount to Amit Goyal, cannot be taken into consideration at this stage especially in the light of the fact that neither he is an accused in the FIR nor is party before this Court.

9. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) of BNSS which reads as under:-

482"Direction for grant of bail to person apprehending arrest:

1. *When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
2. *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."

10. Hon'ble Supreme Court in **State represented by CBI Vs. Anil Sharma,** (1997) 7 SCC 187 has held as under:-

"6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he 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 need 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 task of disintering offences would not conduct themselves as offenders."

11. Hon'ble Apex Court in plethora of judicial precedents including **Gurbaksh Singh Sibbia Vs. State of Punjab**, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of

offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

12. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioners has been *prima facie* established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioners at this stage would scuttle the ongoing investigation.

13. However, before parting with the judgment, the arguments advanced by learned Senior Counsel for the petitioners that the complainant had not disclosed about the source of the payment as no investigation was carried out regarding the same, this Court makes it clear that the Commissioner of Police, Gurugram would taken into consideration the facts and circumstances of the case and would ensure a free and fair investigation in the case in hand.

14. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioners do not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

15. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

26.05.2025
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No