IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

103 **CRM-M-36061-2025**

Date of decision: 11.08.2025

Poonam Gulia

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pankaj Nanhera, Advocate with
Mr. Rahul Gautam, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

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SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 438 of Criminal Procedure Code, 1973/482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.19 dated 14.01.2025, registered for the offences punishable under Sections 120-B, 406 and 420 of IPC at Police Station Mujesar, District Faridabad.

2. The gravamen of the FIR in question pertains to defrauding the complainant namely Chetan Bhardwaj, who alleged that he entered into an agreement to sell dated 03.05.2024 with the petitioner for the purchase of property bearing No.172, LIG Housing Board, Sector-23, Faridabad for a total sale consideration of ₹73,50,000/-. On the date of execution of the agreement, the complainant allegedly paid an earnest amount of ₹10,00,000/- to the petitioner. The stipulated date for execution and registration of the sale deed was fixed as 10.08.2024. It was further alleged that as per the agreement, the petitioner was under an obligation to obtain

'No Dues Certificate', 'Transfer Permission' and 'Permission to Sell' from the competent authorities before the said date. However, prior to the stipulated date, the petitioner is alleged to have sold the disputed property to a third party. Upon learning this fact on 08.08.2024, the complainant issued a legal notice through counsel demanding execution of the sale deed in his favour. However, in response thereto, the petitioner disclosed that she had already transferred the property to another person. It is the allegation of the complainant that the petitioner had cheated him and wrongfully retained the earnest amount. On these set of allegations, the complainant lodged a written complaint on 25.08.2024 before the Commissioner of Police, Faridabad, leading to registration of the present FIR.

3. Learned counsel for the petitioner has iterated that, even if the allegations in the FIR are assumed to be true for the sake of arguments, no offence under Sections 120-B, 406, or 420 IPC is made out against the petitioner. It has been further submitted that the dispute, at best, is civil in nature arising out of a breach of contractual terms. It is contended that the agreement to sell dated 03.05.2024 is a forged document. According to learned counsel, the petitioner has received only Rs.1,00,000/- in pursuance of the agreement and not Rs.10,00,000/- as claimed by the complainant. Learned counsel asserts that the allegations levelled against the petitioner in the impugned FIR are entirely baseless and devoid of any credible or cogent material. According to learned counsel, in the absence of substantive and incomplete material, the entire prosecution narrative is nothing but an abuse of process. It has been further submitted that there is no need for custodial interrogation of the petitioner as she is ready to join investigation and has no criminal antecedents. Moreover, there is no likelihood of the petitioner

absconding from the process of justice in case she is enlarged on pre-arrest bail. On strength of aforesaid submissions, the grant of anticipatory bail is entreated for.

4. *Per contra*, learned State counsel (on the strength of advance notice) has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. He has submitted that conduct of the petitioner with regard to selling the property prior to the stipulated date of execution of the sale deed clearly discloses dishonest intention from inception and, thus, attracting the offence of cheating. He has further contended that in light of the seriousness of the allegations, the custodial interrogation of the petitioner is necessary to ascertain the role of all accused persons and to recover the amount involved. He has further emphasized that releasing the petitioner on bail at this crucial stage may hamper the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

6. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. The FIR *ibid* was lodged on the basis of complaint filed by the complainant namely Chetan Bhardwaj, who alleged that he entered into an agreement to sell dated 03.05.2024 with the petitioner to purchase the property in question for ₹73,50,000/-. Accordingly, ₹10,00,000/- was paid as earnest money and the sale-deed was to be executed by 10.08.2024. The petitioner was obliged to

obtain requisite permissions before execution of the sale-deed. The FIR *ibid* categorically states that before the said date, the petitioner allegedly sold the property to a third party; refused to execute the sale-deed in favour of the complainant and retained the earnest money.

7. The plea that the matter is purely civil in nature is not tenable when the allegations disclose the existence of *mens rea* at the very inception of the transaction. The material placed on record reveals that the petitioner does not dispute execution of the agreement to sell dated 03.05.2024. It is also not denied that prior to the contractual date fixed for execution of the sale deed, the petitioner has sold the property to a third person. Such conduct, *prima facie*, indicates that the petitioner never intended to honour her contractual obligation towards the complainant and acted with dishonest intention from the outset. Therefore, it cannot be said that the instant case is merely a civil dispute arising from breach of contract. The alleged act of transferring the property to a third party prior to the agreed date, despite receiving earnest money coupled with the absence of any steps on the part of the petitioner to terminate the agreement or refund the amount, provides a strong foundation for invoking Section 420 IPC. It is well-settled that anticipatory bail is an extraordinary remedy to be granted sparingly in exceptional cases where the Court is satisfied that the accused has been falsely implicated or that custodial interrogation is wholly unnecessary. The allegations herein are serious and specific, supported by documentary material, and grant of pre-arrest bail at this stage is likely to hamper investigation.

8. The investigation is at nascent stage and the recovery of crucial documentary evidence coupled with other circumstances detailed in the

investigation, points towards the active complicity of the petitioner in the alleged offence and to defraud the complainant. The stand of the State before this Court is that the custodial interrogation of the petitioner is indispensable for the purpose of effectively recovering the siphoned amount. The nature and gravity of the offence, involving defrauding the complainant, necessitate a thorough investigation, which, at this stage, cannot be conducted without the petitioner being in custody. Moreover, no exceptional or compelling circumstance has been demonstrated which would warrant the grant of anticipatory bail in such a serious offence. The petitioner, in a calculated and fraudulent manner, proceeded to defraud the complainant.

9. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to establish a reasonable basis for the accusation of the petitioner. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation. In ***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039]***, the Supreme Court held as under : (SCC p.189, para 6)

> *"6. We find force in the submission of 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 information and also materials 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 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 a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

10. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the conspiracy coupled with the unexplained failure to refund or account for the earnest money.

11. In view of the prevenient ratiocination, it is directed as under:

(i) The petition in hand is dismissed being devoid of merits.

(ii) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

(iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 11, 2025
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No