



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CRM-M-43686-2024

Date of decision: 6th March, 2025

Gagandeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. H.S. Multani, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Mr. Sandeep Mahajan, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of anticipatory bail in case bearing FIR No. 93 dated 24.05.2024 registered under Sections 406, 420 and 120-B of IPC at Police Station Sadar Nabha, District Patiala.

2. On 05.09.2024, the following order had been passed by this Court:-

"The instant petition has been filed by the petitioner seeking grant of anticipatory bail in case arising out of FIR No.93 dated 24.05.2024 registered under Sections 406, 420 and 120-B of IPC at Police Station Sadar Nabha, District Patiala on the basis of complaint filed by the complainant- Khushal Kumar alleging therein that he had entered into an agreement



to purchase one house measuring 420 sq. yards owned by the accused-Saroop Singh for sale consideration amount of `32 lacs. An amount of ` 10 lacs had been paid by him to Saroop Singh at the time of execution of agreement on 09.05.2019. The sale deed was to be executed on or before 07.05.2020. The said period was extended further and the date for execution of registration of sale deed was extended to 15.07.2022. The accused Saroop Singh, his wife and the present petitioner, who is son of Saroop Singh, ultimately at the final stage refused to execute the sale deed in favour of the complainant on 03.10.2023 and extended threats to kill him. While alleging that he came to know that the accused were in the habit of cheating other people as well in similar manner, he prayed for taking action against the accused. After registration of the FIR, investigation proceedings have been initiated and are underway. Since the petitioner has also been nominated as an accused, therefore, apprehending his arrest, he had moved an application for grant of anticipatory bail which had been dismissed by the Court of learned Additional Sessions Judge, Patiala vide order dated 14.08.2024.

It is argued by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He is neither the owner of the land which was agreed to be sold to the complainant nor he is the signatory to any agreement to sell. The land in question is in possession of the complainant since the year 2019 and in fact, it is the complainant who, with an intention to grab the abutting land measuring 150 sq. yards, has lodged FIR against the petitioner. He has nothing to do with the agreement executed between his father and the complainant. In fact, it is civil dispute which has been given colour of criminal litigation. No recovery is to be effected from him. His custodial interrogation is not required. He is ready to join the investigation. Therefore, it is urged that the petition deserves to



be allowed.

Notice of motion.

Learned State counsel who has appeared on advance notice of the petition, seeks time to file status report in the matter.

Adjourned to 30.09.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

3. Learned counsel for the petitioner has argued that he has already joined the investigation on 27.09.2024. No recovery is to be effected from him. The ingredients for commission of offence under Sections 406 and 420 read with Section 120-B of IPC are not attracted against him as he was neither a party to the agreement executed between the complainant and the co-accused nor he was beneficiary to the transaction. His custodial interrogation is not required. No purpose would be served by passing any order for detaining him in custody. Therefore, it has been argued that the petition deserves to be allowed.

4. Reply has been filed by respondent-State. It is argued by learned Assistant Advocate General, Punjab assisted by learned counsel for the complainant argued that the allegations against the petitioner are quite serious in nature. He was actively involved with the co-accused in commission of offence of cheating and breach of trust. He had counter



signed an affidavit sworn by his father, who was signatory to an agreement to sell his plot to the complainant. The petitioner in connivance with his family members had induced the complainant to enter into an agreement to sell a plot which was already lying mortgaged by concealment of material facts. For effecting recovery of the money, his custodial interrogation is must. Moreover, he has not co-operated with the investigation. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

6. The petitioner has already joined investigation. So far as the non recovery is concerned, mere non recovery of some disputed money cannot by itself be a ground for denial of bail as has also been observed by the Delhi High Court in case titled as '*Jagdish Thakkar vs. State of Delhi*', 1992 (3) CCR 2764' and in case titled as '*Pooran Singh vs. State of Delhi*', 2022(1) RCR (Criminal) 503. With regard to contention that the petitioner has not co-operated with the investigation, it may be stated that the behavior attributed to the petitioner cannot be considered as an instance of non-cooperation, justifying denial for grant of pre-arrest bail since, an accused, while joining investigation, is not expected to make self incriminating statement under the threat that the State may seek withdrawal of the interim protection granted to him. In the considered opinion of this Court, the pretrial incarceration of the petitioner is not required. The allegations that he had conspired with the co-accused in cheating the complainant is to be determined on the basis of evidence to be adduced during trial on thorough assessment of the evidence to be produced on record and not at this stage.



As such, the present petition is allowed and the order dated 05.09.2024, granting interim bail to the petitioner is made absolute, subject to compliance of conditions laid down in Section 482(2) of BNSS.

7. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

6th March, 2025
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |