

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60071-2023
Reserved on: 06.03.2025
Pronounced on: 21.03.2025

Narender Kumar ...Petitioner

Versus

State of Haryana and another ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Shashikant Gupta, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. P.R. Yadav, Advocate
for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
162	27.10.2023	Satnali, District Mahendergarh	406/420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.
2. Vide order dated 30.11.2023, a Co-ordinate Bench of this Court had granted interim protection to the petitioner and the said order is continuing till date.
3. The facts and allegations are being taken from the status report dated 11.12.2024 filed by the State, which reads as follows:

“4. That the brief facts of the case are that on 17.05.2023, an agreement to sell with respect to some land took place between complainant Mahipal and present petitioner. Umed son of Hira Lal was middleman in the said agreement to sell. The date of registration of sell deed was fixed for 17.07.2023. The complainant i.e. respondent no.2 arranged the money for registration of the sell deed by selling out his land and plot. Due to strike of the clerks, the time for registration of the sell deed was extended from 17.07.2023 to 27.07.2023, from 27.07.2023 to 04.08.2023 and from 04.08.2023 to 14.08.2023 due to strike of the clerks of the revenue department. However, the petitioner could not get the agreement to sell registered on one pretext or the other. Lastly, the complainant contacted the real owner of the property in question who disclosed that at present there is no agreement between him and Narender and all the documents

which were given to complainant were forged. It was further alleged that Narender and Umed cheated the complainant by preparing a false agreement to sell on the basis of forged documents. On the basis of above complaint, the present case vide FIR No 162 dated 27.10.2023 (Annexure P-1) u/s 406 and 420 of IPC was registered at Police Station, Satnali against the petitioner and others and the investigation was launched.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel as well as counsel for the complainant oppose bail and refers to the status report.

6. I have heard counsel for the parties and have gone through the record and its analysis would lead to the following outcome. During pendency of present petition, as observed in order dated 04.03.2024, parties had brought to the notice of Co-ordinate Bench about amicable settlement. In agreement to sell dated 17.05.2023, it is allegedly mentioned that petitioner had entered into an agreement to sell with the original owner and now since possession was granted to respondent No.2, petitioner would bring the actual owner at the time of registration of sale deed. Petitioner claims to be present before Sub Registrar on 04.08.2023.

7. Although petitioner has argued that the dispute is civil in nature and not criminal but prima facie criminal intent is also apparent, however this Court is not adjudicating the matter for the purpose of framing of charges but is only adjudicating the anticipatory bail and considering the offences are under Section 406 and 420 IPC, this Court has to consider about the necessity of custodial interrogation and pre-trial incarceration. In the given facts and circumstances of the case, given the mention of the agreement with the actual owner, it cannot be said that the complainant purchaser was unaware about the said fact. On this ground alone, it is not a case for custodial interrogation or pre-trial incarceration.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner's complying with the following terms.

13. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. Petition allowed in terms mentioned above. Interim order dated 30.11.2023 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

21.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.