



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-61301-2024

Reserved on : 29th January, 2025

Pronounced on: 7th February, 2025

Davinder Lather

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Pragyat Bhardwaj, Advocate for the petitioner.

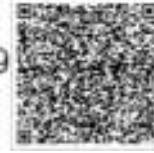
Mr. Neeraj Poswal, AAG, Haryana.

Mr. Vikas K. Gupta, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

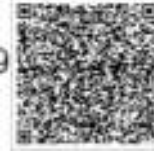
The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of anticipatory bail in case bearing FIR No. 365 dated 21.06.2024 registered under Sections 406, 420 and 120-B read with Section 34 of IPC at Police Station Sector 32-33, District Karnal.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR had been registered on the basis of a complaint lodged by the complainant Sukhdev Singh, making allegations that he was induced by the present petitioner who is a property dealer by profession to enter into an agreement to purchase a house owned by the co-accused Ompati for a sum of Rs. 59,00,000/- by representing that



the said house was free from all encumbrances. He had made payment of an amount of Rs. 20,00,000/- as earnest money. At the time of execution and registration of sale deed on 31.08.2024, the petitioner, co-accused Ompati and her son i.e. co-accused Surender Singh disclosed that the house to be purchased was lying mortgaged with some bank and they sought extension in the period of registration of sale deed on the pretext that the loan was to be repaid. The co-accused Ompati, in-conivance with the present petitioner, however, did not come forward for registration of sale deed and subsequently, the complainant came to know that the house which was to be purchased by him had been auctioned by the banker to some other person. By alleging that the petitioner with dishonest intention to cause wrongful loss to the complainant and to cheat him and for his own gain had induced the complainant to execute agreement to sell in favour of co-accused Ompati, he prayed for taking action in the matter. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, present petitioner moved an application for grant of pre-arrest bail before the learned Additional Sessions Judge, Karnal, which was dismissed vide order dated 26.11.2024.

3. The present petition has been filed by the petitioner on the grounds and it was argued by his counsel that he has been falsely implicated in this case. Infact, the petitioner had no role in execution of any agreement to sell between the complainant and the co-accused. The co-accused Ompati had disclosed about the factum of the property owned by her lying mortgaged with the bank to the complainant at the time of execution of agreement to sell. It was the complainant who had sought extension of time



for registration of sale deed. The co-accused was ready to execute sale deed in his favour. The petitioner was only an attesting witness to the agreement. There is no inducement on his part. He is ready to join the investigation. He is not beneficiary of the impugned amount of money. His custodial interrogation is not required. Therefore, it is urged that he deserves to be extended benefit of pre-arrest bail.

4. Status report has been filed by respondent-State. Learned Assistant Advocate General, Haryana assisted by learned counsel for the complainant argued that there are serious allegations against the petitioner who is a property dealer by profession and who by hatching a conspiracy with the co-accused had induced him to part with a sum of Rs. 20,00,000/- on the pretext of sale of the property owned by the co-accused Ompati by fully knowing that the said property was lying mortgaged and not free from encumbrances. An amount of Rs. 7,00,000/- had been received by the petitioner from the complainant. His custodial interrogation is required for conducting thorough investigation in the matter and for effecting recovery of money. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of pre-arrest bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

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

6. The petitioner in connivance with the co-accused is alleged to have induced the complainant to enter into an agreement to purchase a house owned by co-accused Ompati, while concealing the fact that the said house



was already lying mortgaged with a bank. The petitioner being property dealer and instrumental in execution of agreement to sell was supposed to know about this fact and *prima facie* concealed the same in order to cheat the complainant and to have wrongful gain for himself. At this stage, it cannot be stated that he is not beneficiary to the transactions. The allegations show a *prima facie* case for commission of offence of cheating. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. It is also well settled that the Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extraordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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 dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th February, 2025
Parveen Sharma

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