

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

309

CRM-M-61291-2024

Date of decision: 17th February, 2025

Mukesh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. K.D. Sachdeva, Advocate for the petitioner.

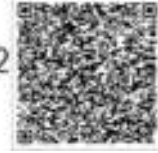
Ms. Himani Arora, Assistant Advocate General, Punjab.

Mr. V.S. Mahal, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

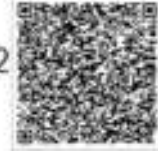
The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of anticipatory bail in case bearing FIR No. 242 dated 28.10.2024 registered under Sections 406, 420 and 120-B of IPC at Police Station Kotwali, Patiala.

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 complaint lodged by the complainant Santosh, on the allegations that the petitioner executed an agreement to sell his house in favour of her son Dinesh, on payment of total sale consideration amount of Rs. 80,00,000/-. An amount of Rs. 14,76,000/- was transferred in the bank account of the petitioner and his wife on his asking by the complainant and her son and an



amount of Rs. 10,24,000/- was given in cash by way of earnest money. As per the terms of the agreement, the sale deed was to be executed on 15.12.2023, on making payment of the remaining sale consideration amount. However, the petitioner refused to execute the sale deed and when the complainant insisted upon for getting the same executed in favour of her son, he started hurling abuses and criminally intimidating her. She alleged that the petitioner with an dishonest intention had duped her of huge amount of money thereby causing wrongful loss to her. During the course of investigation, it was revealed the petitioner and his wife had also entered into an agreement to sell the same property with some other person namely Om Parkash and had failed to execute the sale deed. Subsequently, a compromise had been effected between them. Investigation is underway. Apprehending his arrest, the petitioner moved an application for grant of pre-arrest bail before the learned Additional Sessions Judge, Patiala, which was dismissed vide order dated 02.12.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He was ready to execute sale deed in favour of the son of the complainant and had gone to the office of the Sub-Registrar, Patiala for that purpose and it was the latter, who failed to perform his part of contract and did not come forward for making payment of balance sale consideration amount and to get the sale deed registered. Due to non-compliance of terms of the agreement, the same stood cancelled. The FIR had been lodged after a gap of more than ten months from the date, when the sale deed was to be executed. The dispute between the parties is of civil nature, which has been



given colour of a criminal offence. The petitioner has joined the investigation. His custodial interrogation is not required. No recovery is to be effected from him since the earnest money deposited with him stood forfeited. Accordingly, it is urged that the petition deserves to be allowed.

4. Vide order dated 09.12.2024, passed by this Court, the petitioner was released on interim bail and was directed to join investigation.

5. Status report had been filed by respondent-State. As per learned Assistant Advocate General, Punjab, the petitioner has joined the investigation on 14.01.2025. It is argued that there are serious allegations against the petitioner. Since the very beginning the petitioner had a dishonest intention and that is why he did not come forward to execute the sale deed in favour of the complainant. The factum of transfer of an amount of Rs. 5,00,000/- from the bank account of the complainant in the bank account of the petitioner and his wife stands established. For recovery of money, custodial interrogation of the petitioner is must. Therefore, it is urged that the petition does not deserve to be allowed.

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

7. The petitioner along with his wife is alleged to have induced the complainant to purchase a property in the name of her son and to part with a sum of Rs. 25,00,000/- by way of earnest money. Both the parties are raising rival contentions with regard to readiness on their part to perform their respective part of the agreement. No civil remedy has been availed by the complainant by filing a suit for specific performance of agreement. The petitioner has joined the investigation in compliance of order dated



09.12.2024. The case is based upon documentary evidence. No useful purpose would be served by detaining him in custody.

8. In view of the abovesaid facts, but without commenting on the merits of the case, the present petition is allowed and the order dated 09.12.2024 granting interim bail to the petitioner is made absolute, subject to the compliance of conditions laid down in Section 482(2) of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

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

[MANISHA BATRA]
JUDGE

17th February, 2025
Parveen Sharma

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