



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

CRM-M-64330-2024

Reserved on: 29th January, 2025

Pronounced on : 7th February, 2025

Surender Singh

...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. Adumbrated facts as emanating from the record are that the complainant Sukhdev Singh, lodged a complaint on the allegations that he was induced to enter into an agreement to purchase a house, owned by the co-accused Ompati for a sum of Rs. 59,00,000/- by the present petitioner, co-accused Ompati, who is his mother and by the property dealer i.e. co-accused Davinder Lather. On their representation that this house is free from all encumbrances, the complainant had agreed to purchase the same and had paid an amount of Rs. 20,00,000/- as earnest money. The sale deed was to be executed on 31.08.2024, but just prior to the date, the co-accused Ompati



and the petitioner disclosed to him that the house in question was lying mortgaged with some bank and they had to repay its loan and requested him to extend the date for execution of sale deed. Even on the extended date, the co-accused and the petitioner did not come forward for registration of sale deed. The complainant then came to know that the property which was agreed to be purchased by the complainant, had been auctioned to some third person by the banker, as the accused Ompati had failed to repay the loan. While alleging that the petitioner with dishonest intention to cheat the complainant, had connived with the co-accused to deprive him of his money and caused wrongful loss to him, 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 only due to being son of owner and co-accused Ompati. The dispute between the parties is of civil nature, which has been given a colour of criminal case. The case is based upon documentary evidence. The ingredients for commission of offence of cheating have not at all been made out against the petitioner. He was neither the owner of the house which was agreed to be purchased by the complainant nor he had made any inducement to the complainant to purchase the same and part with his money. He was also not the beneficiary in the transaction. He is ready to join the investigation. His custodial interrogation is not required. No recovery is to



be effected from him. As such, it is urged that he deserves to be extended benefit of pre-arrest bail.

4. *Per contra*, learned Assistant Advocate General, Haryana assisted by learned counsel for the complainant has argued that the ingredients for commission of offence of cheating are *prima facie* attracted in this case as against the petitioner as well, since while knowing that the property in dispute was lying mortgaged, he along with his mother induced the complainant to purchase the same and to part with a huge amount of money and caused wrongful loss to the complainant. It was he who received an amount of Rs. 13,00,000/- from the complainant. He was an active participant in commission of offence of cheating the complainant by deceiving him and making him give money for purchase of a mortgaged property. His custodial interrogation is required for conducting thorough investigation in the matter as well as for recovery of money. No extraordinary 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 have gone through the record carefully.

6. The petitioner is alleged to have connived with his mother i.e. co-accused Om Pati, to induce the complainant to purchase the house which though owned by co-accused, was lying mortgaged by concealing this fact from the complainant. As per the allegations, loss to the tune of Rs. 20,00,000/- had been caused to the complainant and out of the aforementioned amount, an amount of Rs. 13,00,000/- had been received by



the present petitioner from the complainant on behalf of the co-accused Om Pati, who is his mother. The allegations *prima facie* reveal a case for commission of offence of hatching criminal conspiracy to cheat the complainant and cause wrongful loss to him. Simply because a civil remedy is simultaneously available, it cannot be stated that the dispute between the parties is of a civil nature and no case for commission of offence of cheating is made out. 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 extra ordinary 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

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*