

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65608-2024 (O&M)
Reserved on: 07.07.2025
Pronounced on: 15.07.2025

Manohar and Ors.

State of Haryana

Versus

.....Petitioner(s)

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sachin Bhardwaj, Advocate
for the petitioner(s)

Mr. Naveen K. Sheoran, DAG, Haryana.

Mr. Anil K. Saini, Advocate
for the complainant.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
391	29.08.2024	City Narnaul, District Mahendergarh	420, 506 IPC and 120B IPC (added later on)

- The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 438 CrPC, seeking anticipatory bail.
- In paragraph 17 of the bail petition, the accused declares that they have no criminal antecedents.
- The facts and allegations are being taken from the status report dated 3.2.2025 filed by the State, which reads as follows:
 - That the brief facts of the case are that a complaint bearing ro. 883-PO-SPL dated 29.07.2024 written by complainant Yogesh Kumar son of Sube Singh was received in the O/o Superintendent of Police, Mahendergarh at Narnaul to the effect that he is a resident of village Patikra and he is indulged in the business of selling and purchasing the plots. He has two partners namely Rajbir Yadav and Ram Kishan Yadav. They entered into an agreement on 03.01.2019 with Smt. Dhupal @ Dhapli Devi d/o Ramswarup, resident of Mohalla Kailash Nagar, Narnaul. The said agreement was entered for the land comprised in Khewat no. 1089, Khatoni no. 1523, Khasra no. 2685, total measuring 1100 square yards for sale consideration of 88,00,000/-, Out of the said amount, they paid 10 lacs at the time of said agreement, 13 lacs were paid on 14.03.2019 and 20 lacs were paid on 25.06.2019. Entry in this regard, was also made in the said agreement and the family members of the Dhapli Devi also signed the said writing. At the time of execution of the said agreement, Vikram and Sanjay were also present and they signed the said agreement as witnesses. The whole amount of the said land was paid in the year 2019, and the same was duly acknowledged in writing by the grand-son of Smt. Dhapli Devi. It is alleged that sale deed of some land was

executed by Smt. Dhapli Devi and the payment of the same was made through cheque. The whole payment of Smt. Dhapli Devi was made. However, she dishonestly and fraudulently further made the agreement of the said land with some notorious persons Dhapal @ Dhapli Devi alongwith Ashok Kumar son-in-law and Manohar Lal son of Dhapal @ Dhapli Devi are giving threaten to them. It is alleged that she committed cheating with him and resold the said land to other. She neither returned their payment nor gave land to them and made De request to take legal action against the accused persons. After receiving the above complaint, it was marked to SHO, P.S. Sadar Mahendergach for preliminary enquiry who conducted the enquiry wherein the agreement (Annexure P-3) which was executed between the complainant party and Dhapal Dhapli Devi was found suspicious because the witness namely Virender son of Shivilal in presence Rs.23 lakhs and Rs. 20 lakhs were received by Mrs. Dhapal Dhapli Devi denied about the said transaction and told that rupees had not given in his presence to Mrs. Dhapal @ Dhapli Devi, so in view of the above facts, the suspicious agreement was required to send to FSL Madhuban for comparison of the thumb impression/signatures of Dhapal @Dhapli Devi as well as witnesses and keeping in view this facts, the enquiry report along with complaint were sent to Police Post, Mahabir Chowk, Narnaul for registration of the case. From the contents of above complaint/application as well as preliminary enquiry report, the offence punishable under sections 420 and 506 of IPC was made out upon which ASI Kuldeep Singh sent a writing (tehrir) to police station through SPO Narender no.382/NNL for registration of FIR and on the basis of said tehrir, the present case vide FIR No.391 dated 29.08.2024 under section 420 and 506 of IPC was registered at Police Station, City Narnaul, District Mahendergarh against thepetitioners and investigation was launched.”

4. The petitioners’ counsel submits that the dispute is purely civil in nature but the complainant has tried to give it a colour of criminal prosecution. He contends that pre-trial incarceration would cause an irreversible injustice to the petitioners and their family. He prays for bail and has no objection to imposing any stringent conditions.

5. The State as well as counsel for the complainant opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the short affidavit of the complainant Yogesh Kumar in support of the supplementary status report, which read as follows:

“That the petitioners made an alleged agreement to sell dated 03.01.2019 with the complainant by mis-representing & concealment of the facts from the complainant as mentioning the fact in the alleged agreement to sell that "I, First Party has not raised any loan against above mentioned land." i.e. the aforesaid land is free from all encumbrance, but the petitioner No. 3 Smt. Dhapli Devi had already taken the loan of Rs. 2,45,000/-from the Punjab & Sind Bank on 20.02.2017 by mortgaged the aforesaid land as mentioned in the agreement to sale dated 03.01.2019. It is also pertinent to mentioned here that by repeating request by the complainant to the petitioner No. 3 the aforesaid land was never mortgaged free by the petitioner no. 3 Smt. Dhapli Devi till 08.05.2025. It is also pertinent to mentioned here that without free from mortgaged the aforesaid land, no any sale deed of the entire land was executed by the petitioner No. 3 in favour of the complainant and others. Be that as it may, as per the terms and condition of the agreement to sale dated 03.01.2019, the petitioners could not handover the "No objection certificate regarding this land till today to the complainant and others i.e. Second Party.”

REASONING:

7. 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.

8. Perusal of affidavit of the complainant reflects that the agreement was executed on 3.1.2019 and petitioner concealed the fact that she had already taken loan on the land. It was open for the complainant to go through the record/Jamabandi etc. to find out whether there is any encumbrance on the same or not. Ignorance of the complainant cannot be made a ground to deny bail to the petitioner. Moreover, the dispute appears to be civil in nature.

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, subject to the compliance of terms and conditions mentioned in this order. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make 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 petitioners are not required in any other case, they 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 Ilaqa 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 petitioners 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 petitioners' complying with the following terms.

13. The petitioners are 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 petitioners shall be in deemed custody

for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners 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 petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. 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 petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

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

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

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners 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.

19. Petition allowed in terms mentioned above. All pending applications, if any, stand disposed of.

15-07-2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO