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2025:PHHC:089427



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61572-2024
DECIDED ON:10.07.2025

RAKHI

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajesh Lamba, Advocate and
Mr. Rahul Guglani, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

Mr. H.S. Jugait, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

1. The instant petition was preferred under Section 483(3) of BNSS praying for cancellation of anticipatory bail granted to respondent No.2 vide order dated 19.11.2024 (Annexure P-6) in FIR No.0105, dated 05.09.2024 (Annexure P-1), under Sections 465, 467, 468, 473 IPC, registered at Police Station Bhupani, District Faridabad. The allegation from the FIR could be culled out as has been narrated therein being simplicitor reproduced hereinbelow:-

“To Deputy Commissioner of Police, Faridabad. Subject - Regarding lodging of false complaint in FIR no. 155 dated 17.11.2023 at PS Bhupani. Sir, It is requested that I am wife of



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Naveen S/o Rakesh Resident of village Kotla Tehsil and District Faridabad. My husband Naveen had executed an agreement to sell with Priynaka Kumari d/o Sh. Veer Singh Rathi r/o H.No. 221, Mayur Vihar, Mewla Maharajpur, NHPC Colony, Faridabad one plot measuring 110 sq. yards, situated at Bhupani, Sub-tehsil Tigaon, District Faridabad, Haryana comprised in Khewat no. 4 and 720, khasra no. 84, Killa No. 18/2 (0-9), 19/1 (2-5), 22 (8-0), 23 (3-18), Mu. No. 85, Killa no. 1/3(3-17), 2(7-18) (1-9) 9(5-15), 10/2 Min. (5-13), 12 (2-0) Mu. No. 96 Killa no. 5/2 (4-14) Killa no. 4/1 (2-0), 4/2 (6-0) Mu. No. 85 Kila no. 10/2, Min. (2-0) out of which 110 Yards. Agreement to sell dated 18.08.2020 for an amount of Rs. 8,25,000/- out of which Rs.1,47,000/- by cheque no. 257581 dated 17.08.2020 and three thousand rupees was given in cash. Date of registry was decided upto 10.04.2021. The registry deadline was found dated 15.07.2021. Possession was to be given at the time of registry. After the date of registry is Priyanka meets my husband and asks my husband to give her plot no. 202 and upon her request my husband gave plot 202 situated at Bhupani, Sub-tehsil Tigaon, District Faridabad, Haryana comprised in Khewat no. 4 and 720, khasra no. 84, Killa No. 18/2 (0-9), 19/1 (2-5), 22 8-0), 23 (3-18), Mu. No. 85, Killa no. 1/3(3-17), 2(7-18) (1-9) 9(5-15), 10/2 Min. (5-13), 12 (2-10) Mu. No. 96 Killa no. 5/2 (4-14) Killa no. 4/1 (2-0), 4/2 (6-0) Mu. No. 85 Kila no. 10/2, Min. (2-0) out of which 100 Yards on 22 ft. rasta. Total amount was fixed as Rs. 9 lacs. Priyanka adjusted previous Rs. 1,50,000/- given in previous agreement and gave following cheques of Rs.6,50,000/- to my husband. Sr. No. 1 cheque no. 613835 Date 13-04-21, Amount 2,00,000/-, Sr. No. 2 cheque no. 809185 Date 13-04-21, Amount 1,00,000/-, Sr. No. 3 cheque no. 622545 Date 15-04-21, Amount 3,00,000/- Sr. No. 4 cheque no. 809184 Date 10.11.20, Amount 50,000/- and date of registry was 15.07.2021. On 17.07.21, Priyanka gave Rs. 1 lac to my husband. Priyanka took back Rs, 1,00,000/- in the name of her daughter illness of this she took Rs, 80,000/- in cash and Rs.20,000/- through account. Priyanka filed a false complaint against my husband. My husband told Priyanka that I am ready to execute GPA for 100 yard and I am ready to give the plot, but after this Priyanka started creating pressure for 110 yards, and Priyanka filed false case no.



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155/23 against my husband, which has been investigated by In-charge from the neighbours that my husband neither threatened Priyanka nor did any act with her. Priyanka in lieu of this wants to take possession of other land as well. Neither has my husband broken anything nor has he done wrong. We have also come to know that Priyanka got signed agreement with someone named Shatrughan Panday for meter connection on my father-in-law land and took meter No. F15-523-553 on 18.05.2023, which has been done on the basis of forged document. Therefore, it requested to you to check this electricity connection from electricity department. A case should be filed against the Priyanka for fraud and preparing forged documents. It is requested that the false cases filed by Priyanka should also be properly investigated and cancelled and case should be registered against Priyanka in this regard.”

2. Mr. Lamba, Advocate appearing on behalf of the petitioner would urge that accused-respondent No.2, namely, Priyanka Kumari was booked in the instant FIR on the allegation of using the forged and fabricated agreement to sell dated 20.04.2023 purporting the same to be executed between her and one Shatrughan Pandey to get an electricity connection No.F15-523-553 on 18.05.2023 on the land which was in the name of petitioner-complainant's father.

4. The instant FIR has been lodged under Sections 465, 467, 468, 473 IPC, 1860 and further allegation against accused-respondent No.2 that the land of petitioner's father has been forcibly trespassed by respondent No.2-accused with further allegation that the alleged agreement to sell dated 20.04.2023 being registered document at No.11851 with Sub Registrar, Faridabad, actually do not match with the record of the said office. It is in this backdrop of the facts and circumstances, police remand of accused-respondent No.2 Priyanka was sought by the police urging that recovery of



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said forged documents is must to proceed further in the investigation for reaching to a logical conclusion since the allegations also pertain to not only forgery of the agreement to sell but the stamp and signatures of the Sub Registrar, Faridabad as well. Even the photograph of some lady has been used in the said agreement which is not that of accused/respondent No.2 Priyanka.

5. However, the Judicial Magistrate Ist Class, Faridabad in its order dated 25.10.2024 went on to record that:-

“The Court is of the opinion that where there is no prima facie proof of any forgery and fabrication of the agreement in question by the accused except the aforementioned report by the concerned clerk from the office of Sub-Registrar, there is no ground on the case file on the basis of which the accused can be remanded to police custody. It has further disclosed by 10 that the accused Priyanka is a street vendor who makes 'paratha' on road-side. The court is of the opinion that the entire investigation carried out in the present case was not proper and tainted as well as inclined in one direction. In absence of any prima facie proof of any forgery and fabrication, the court finds no justified grounds to remand the accused in police custody. Hence, the prayer made by 10 to remand the accused in police custody for five days stands declined. IO further prayed that the accused be remanded to judicial custody, however, the court is of the opinion where no ground is made out against the accused for sending her in police custody, her judicial custody is not justified at this juncture. The accused be released from custody immediately, if not required in any other case. Now, case is adjourned to 09.12.2024 for awaiting challan. Papers be sent back to court concerned.

6. It is evident that the police remand was declined and further observation was made to the effect that her judicial custody is also not required at that juncture and a direction was issued to release the accused-respondent No.2 immediately from custody, if not required in any other case.



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7. The prosecution/State of Haryana went into revision petition challenging the said order under Section 397 Cr.P.C. pressing for the police remand which was disposed of with the following observation:-

“7. I have heard the arguments advanced by ld. counsel for the revisionist/ld. Public Prosecutor on behalf of State and counsel for the accused and observed that complaint was lodged against the present accused by Rekha wife of Naveen with the allegations that accused has forged the agreement dated 20.4.2023 in connivance with Shatrughan Pandey and she has also forged the stamp and signature of Sub Registrar. For further investigation in this case, an application was moved by police seeking police custody of accused for five days but Id. Duty Magistrate vide impugned order dated 25.10.2024 has declined the police remand and released the accused from custody, hence, the present revision has been filed.

8. The allegations against the accused is that she allegedly prepared false and fabricated agreement to sell dated 20.4.2023 and she has also acted upon the said forged agreement dated 20.4.2023 by applying for new electricity connection for domestic purpose in her house. In the preliminary investigation of the police, it revealed that agreement dated 20.4.2023 is different from deed no.11851 dated 17.2.2023 as per record of the Sub Registrar.

9. Ld. counsel for the accused although has stated that she has not prepared any false agreement but if she has not prepared false agreement, then how she came in possession of forged agreement dated 20.4.2023 which she used for getting new electricity connection, therefore, contention raised by Id. counsel for the accused is not acceptable.

10. Ld. Duty Magistrate has specifically mentioned in its order dated 25.10.2024 that accused is a poor lady and running road side dhaba but it should not forget that crime is a crime and court cannot stop the investigation being conducted by the police at its logical end. Denying the police remand by the court is not justified particularly when the prayer of the prosecution is that they have to recover the original agreement dated 20.4.2023 and forged stamps used by the accused in connivance with co-accused Shatrughan Pandey. From the impugned order dated 25.10.2024, it appears that Id Duty



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Magistrate did not consider the entire facts of the case and rejected the request seeking police remand without seeing the gravity of offence. The court cannot prohibit the investigating agency in carrying out the proper investigation in the case to reach logical and truthful conclusion of the criminal proceedings.

11. In the considered opinion of the court, the impugned order dated 25.10.2024 is not sustainable, therefore, same is hereby set aside and present revision is allowed. Id. Illaqa/Duty Magistrate is hereby directed to pass fresh order in the light of above observations of this court. Since Id. Duty Magistrate has released the accused from the custody, therefore, Investigating officer is authorised to detain the accused Priyanka Kumari and produce her before Id. Illaqa/Duty Magistrate and the concerned court will pass fresh order after considering the entire facts of the case. A copy of this order be sent to the Id. Illaqa/Duty Magistrate for necessary compliance. A copy of this order be also provided to the investigating agency dasti and file of this revision-petition be consigned to the records after due compliance.”

8. However, instead of going back to the JMIC, Faridabad in the light of direction passed by Additional Sessions Judge in the revision petition dated 06.11.2024 (Annexure P-3), the accused-respondent No.2-Priyanka Kumari approached this Court vide CRM-M-56693-2024 seeking challenging the order dated 06.11.2024 but the said petition was withdrawn after arguing for some time with liberty to avail other alternate efficacious remedy as per law. A reference has been made to the order dated 13.11.2024 (Annexure P-4) passed by this Court.

9. Thereafter, the whole controversy erupt at this stage when respondent No.2-accused namely Priyanka Kumari moved an application seeking anticipatory bail under Section 438 Cr.P.C. in the instant FIR which came to be heard by Ms. Jyoti Lamba, Additional Sessions Judge, Faridabad on 19.11.2024 (Annexure P-5). Mr. Lamba, Advocate appearing for the

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petitioner drew attention of this Court to a noting of that date made by the Judicial Officer properly in her own handwriting Annexure P-5 that case is documentary based and interim bail was granted to respondent No.2-accused subject to joining the investigation within three days and on furnishing Rs.50,000/- as surety of the like amount. After having heard the counsel for the parties, the Additional Sessions Judge, Faridabad orally instructed the parties especially the PP for the State to release Priyanka Kumari-accused on interim bail on her joining the investigation within a period of three days and parties left the Court room.

10. Later on, in the day, it transpired that another order of even date i.e. 19.11.2024 (Annexure P-6) came to be passed by Ms. Jyoti Lamba, Additional Sessions Judge, Faridabad running into 12 pages granting respondent No.2-Priyanka Kumari an absolute anticipatory bail observing that it is not the case falling under the category of “*serious offence*” but a civil dispute given the colour of criminal nature and recording its inclination to grant bail. This order was uploaded on the web portal of the District Court, Faridabad.

11. Mr. Lamba, learned counsel for the petitioner would dispute before this Court that once a noting was made by the Judicial Officer after hearing the arguments and an oral order was pronounced in the open Court to the effect that accused-respondent No.2 Priyanka was to be released on interim bail subject to her joining the investigation within three days and also on furnishing Rs.50,000/- as surety in the like amount than passing of order of even date granting her absolute anticipatory bail is absolutely illegal and not known to law and not the procedure normally adopted. Interestingly, a certified copy of the said order was also issued to the parties on the very



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same day, resulting in respondent No. 2-accused Priyanka Kumari being granted complete liberty without having undergone any period of custody.

12. In the light of these two orders of even date, this Court called for the explanation of Judicial Officer Ms. Jyoti Lamba, Additional Sessions Judge, Faridabad vide order dated 09.12.2024 which was received by this Court vide memo No.825 dated 16.12.2024 in the form of explanation qua the order dated 19.11.2024 (Annexure P-6) through the Registrar of this Court and the same is taken on record as Document A.

13. A perusal of the said explanation would make it ample clear that the judicial officer has pronounced an oral order having of the opinion that accused at the first instance be directed to join the investigation but later on she reached to an opinion that it is a case to be allowed and accordingly the order dated 19.11.2024 (Annexure P-6) came to be passed granting the accused absolute anticipatory bail at the first instance itself.

14. This very fact is further evident from the reply filed by the State i.e. by way of an affidavit of Rajeev Kumar, HPS, Assistant Commissioner of Police, Central, Faridabad, whereby para No.6 disclosed as under:-

“6. That the accused Priyanka Kumari on 16.11.2024 again filed an application for seeking bail u/s 438 of Cr.P.C. before the Ld. Court of Ms. Jyoti Lamba, Ld. ASJ, Faridabad. The same was fixed for hearing on 19.11.2024. It is also submitted that on 19.11.2024 the investigating officer of case FIR No. 105 dated 05.09.2024 u/s 465,467,468,471,120B IPC P.S Bhupani was deputed to Hon'ble High Court in an another case due to which SI Kamal Chand was deputed to attend the Ld. Court of ASJ, Faridabad on 19.11.2024 and submitted the reply to the bail application filed by the accused Priyanka Kumari. It is also submitted that during the hearing of bail application, the Ld. Court of ASJ, Faridabad orally issued directions to the accused to join the investigation within 3 days. It is not out of place to mention here that in the afternoon when SI Kamal Chand



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asked the reader of Ld. Court of ASJ, Faridabad for providing the copy of order, the reader after perusing the file told that interim bail has been granted to the accused and the orders will be provided later on. Thereafter, the court of Ld. ASJ, Faridabad disposed of the bail application vide order dated 19.11.2024 in which nowhere mentioned that the accused joined the investigation within 3 days. However, the remaining conditions of bail were remained as such. The operative para of order dated 19.11.2024 is reproduced below:-

"_--The applicant, is thus, directed to co-operate and join the investigation in the present case, as and when required, on receipt of the notice in this regard, as per rules, while also considering that the applicant was a woman and, the manner in which, a 'woman' had to be joined into the investigation of the case by the concerned I.O. In the event of her arrest being required, she will be allowed bail, in the present case, on her furnishing a personal bond in the sum of Rs. 50,000/- with one surety in the like amount, to the satisfaction of the Investigating/Arresting Officer. The applicant shall abide by the Faridabad terms and conditions, as envisaged under Section 438(2) of Cr.P.C. failing which, shall lose the benefit of interim bail allowed, to her.

19. Nothing stated, here-in-above, shall be construed to be an expression of this Court, on the merits of the case.

File be consigned to the Record-room, after due compliance." That the present affidavit is being filed in compliance of order dated 16.01.2025 and the same may kindly be taken on record.

15. Now, coming back to the order assailed before this Court on 19.11.2024 (Annexure P-6), para No.18 of that order would be pertinent to be recorded hereinbelow as well:-

"18. The applicant, is thus, directed to co-operate and join the investigation in the present case, as and when required, on receipt of the notice in this regard, as per rules, while also considering that the applicant was a woman and, the manner in which, a 'woman' had to be joined into the investigation of the case by the concerned I.O.. In the event of her arrest being required, she will be allowed bail, in the



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present case, on her furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount, to the satisfaction of the Investigating/Arresting Officer. The applicant shall abide by the terms and conditions, as envisaged under Section 438(2) of Cr.P.C. failing which, shall lose the benefit of interim bail allowed, to her.”

16. A perusal of the above would depict that respondent No.2-accused was granted the concession of interim bail which was otherwise to be lose, if any, of the condition as envisaged under Section 438(2) Cr.P.C. had been violated. In such a case, she would only have been eligible for bail upon furnishing a personal bond of Rs. 50,000/- with one surety in the like amount.

17. On those aspect as well, Mr. Chetan Sharma, DAG, Haryana would submit on instructions from ASI Shamsher, that respondent No.2-Priyanka Kumari has not yet joined the investigation and neither any such surety has been furnished either before the IO or before the Court concerned. He would further prays for custodial interrogation of respondent No.2 to recover the alleged forged agreement to sell on which signatures of Sub Registrar, Faridabad have also been forged apart from photograph of one lady as well as stamp of that office which in the opinion of this Court tantamounts to a serious offence.

18. Amazingly, this Court finds it illogical to the extent of judicial indiscipline on the part of Ms. Jyoti Lamba, Addl. Sessions Judge, Faridabad in recording two orders of even date without following due procedure as envisaged for the purpose of considering anticipatory bail petitions.

19. In the light of above discussion, the anticipatory bail granted to respondent No.2-accused namely Priyanka Kumari vide order dated 19.11.2024 (Annexure P-6) is hereby cancelled.



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20. The Investigating Officer would be at liberty to take appropriate legal remedial measures in accordance with law to proceed further in the investigation to take it to a logical conclusion.
21. As far as conduct of the Judicial Officer is concerned, which is not only to be deprecated but demands thorough investigation into the matter and accordingly, the Registrar General is directed to place the case file alongwith a copy of the order before the Hon’ble Administrative Judge, Faridabad for consideration and necessary action as deemed appropriate.
22. The petition in the aforesaid terms stands disposed off.

10.07.2025
Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>