

**Hukum Chand Vs. State**

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**Court :** Delhi

**Decided On :** May-05-1993

**Reported in :** 1993CriLJ3863; 1993(3)Crimes479; 50(1993)DLT628; 1993(26)DRJ524

**Judge :** Sat Pal, J.

**Appeal No. :** Crl. M (M) No. 870 of 1993

**Appellant :** Hukum Chand

**Respondent :** State

**Advocate for Pet/Ap. :** D.C. Mathur, Sr. Adv. and; Shambu Nath, Adv.; R.D. Jolly

**Judgement :**

**Sat Pal, J.**

1. This is a petition under section 438 of the Code of Criminal Procedure for grant of anticipatory bail.

2. Briefly stated the case of the prosecution is that the complainant by Dr. Ramesh Gupta who is the Secretary-cum-Chief Administrator of Doctors Enclave Society, Ludhiana had given a total sum of Rs. 71,25,000/- during the period 16-4-91 to 13-5-92 to the petitioner on his own behalf and on behalf of other members of the Society in connection with the purchase of 10.5 acres of land. This amount was

given to the petitioner pursuant to an agreement to sell dated 13-5-91 and supplementary agreements dated 28-6-91 and 30-6-91. It has been alleged in the complaint that the petitioner had induced the complainant and other members of the Society by showing certain documents including agreements to sell dated 25-8-89 between him and 27 farmers and its addendum dated 11-4-91 regarding an alleged purchase of a big piece of land from these farmers. It is further alleged that pursuant to the agreement to sell dated 13-5-91 and supplementary agreements dated 28-6-91 and 30-6-91, the petitioner was to execute the sale deed on or before the period of 3rd Installment of the total consideration but the petitioner has refused to execute the sale deed and has criminally misappropriated the abovementioned amount of Rs. 71,25,000/-. It is also alleged that on 14-4-93 when the complainant along with his wife approached the petitioner to honour his commitment by providing the land to the complainant as well as to other members of the Society and getting the documents executed, the petitioner aimed his revolver at the complainant and his wife and snatched some papers from their hands and threatened them to keep quite about the matter.

3. Mr. Dinesh Mathur, the learned Senior counsel appearing on behalf of the petitioner did not controvert the allegations that a sum of Rs. 71,25,000/- was paid by the complainant on his own behalf and on behalf of the members of the Society to the petitioner. He, however, submitted that on receipt of the aforesaid amount from time to time, the petitioner had also been advancing the amounts to various farmers to purchase the land, part of which was to be sold to the complainant and other members of the Society. He submitted that even the complainant in his complaint has stated that negotiations between the parties have been held from time to time. He also submitted that there was no material to show that the petitioner had induced the complainant and other doctors. The learned counsel also placed photo copies of the receipts to show that the petitioner had also been advancing certain amounts to purchase the land from the farmers.

4. The learned counsel further drew my attention to a judgment of Supreme Court reported in the case of Gurbaksh Singh Sibbia v. State of Punjab, : 1980 CriLJ1125 . Relying on this judgment the learned counsel submitted that no special case is required to be made out for seeking an order for grant of

anticipatory bail. He submitted that the petitioner was always willing to co-operate with the investigating agency and in fact the petitioner had appeared before the Investigating Officer on 14-4-93 at about 1.30 p.m. and was let off at 4.30 p.m. He, therefore, submitted that the petitioner should be granted anticipatory bail subject to the conditions as the court may deem it necessary to impose on the petitioner.

5. Mr. Jolly, the learned counsel appearing on behalf of the State submitted that the petitioner had induced the complainant and other members of the Society by showing an agreement to sell dated 25-8-89 and its addendum dated 11-4-91 purported to be between the petitioner and 27 farmers. By showing the said agreement and other documents the petitioner had told the complainant that in terms of the said agreement to sell, he had purchased a large piece of land out of which he would sell 10.5 acres of land to the complainant and other members of the Society. The learned counsel further submitted that three of the aforesaid farmers, namely, Sushil Kumar, Vijay Kumar and Chander Sen were approached by the Investigating Officer and their statements were recorded. In their respective statements, all these farmers have denied having signed any such agreement to sell and they have stated that their signatures appear to have been forged as they never signed such an agreement to sell with the petitioner. The learned counsel also submitted that the petitioner has even threatened the complainant and his wife with his revolver. The learned counsel, therefore, contended that in view of these facts, petitioner should not be granted anticipatory bail.

6. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. In the case of Gurbaksh Singh Sibbia (supra), the Supreme Court had held that even in respect of offences like criminal breach of trust, circumstances may broadly justify the grant of anticipatory bail, though of course, the court is free to refuse anticipatory bail in any case if there is material before it justifying such refusal. In the present case it has been alleged that the petitioner induced the complainant by showing Agreement to Sell dated 25-8-89 and addendum dated 11-4-91 which according to the prosecution were forged documents. As stated hereinabove the petitioner is alleged to have received a sum of Rs. 71,25,000/- but has not executed any sale deed so far against the said amount. It has also been alleged that the petitioner when approached the

complainant aimed the revolver at him and threatened him to keep quite about the matter.

7. I have also perused some of the receipts, photo copies of which were produced by the learned counsel for the petitioner. From these receipts, I find that one receipt pertains to a payment of Rs. 20.00 lacs by the petitioner to one S. K. Gupta for purchase of land on 23rd July, 1991, but no address of said S. K. Gupta has been given on the receipt. It is also mentioned in this receipt that in case deal is not finalised by 29th July, 1991, the principal amount shall be returned by 29th July, 1991. Another receipt pertains to a payment of Rs. 5.00 lacs by the petitioner to S. K. Gupta and Umrao Singh on 10th August, 1989 and their address has been shown 'Rohtak' and no other particulars of their address have been given in the receipt. Further the signatures of S. K. Gupta on this receipt appear to be totally different from the signatures of S. K. Gupta on the receipt dated 23rd July, 1991. Another receipt pertains to payment of Rs. 2.00 lacs made on 14-5-92 but no address of the person who has acknowledged this amount has been given on this receipt.

8. In view of the facts stated hereinabove, I find that there is sufficient material to refuse anticipatory bail to the petitioner. Accordingly the petition is dismissed.

9. Petition dismissed.