

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M No.35228 of 2014 (O&M).

Date of Decision: April 07, 2015.

Desh Raj

....Petitioner.

VERSUS

State of Haryana

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

1. Whether the judgment should be reported in the digest? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No

Present: Mr. Kshitij Sharma, Advocate for the petitioner.
Ms. Mahima, Assistant Advocate General, Haryana.

SNEH PRASHAR, J.

A petition under Section 439 of the Code of Criminal Procedure (in short, “Cr.P.C.”) for grant of regular bail was filed by the petitioner in case First Information Report No.242 dated 26.12.2010 under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code (in short, “I.P.C.”) registered at Police Station Pataudi.

2. The instant case was registered on a complaint filed by Jagmal Singh, resident of Rewari. His allegation was that his wife Champa Devi, son Narender and Sneh Lata wife of Narender purchased 32 Kanals of land

for Rs.88 lacs on 02.11.2010 from Krishan Kumar. Later on, they came to know that Krishan Kumar was neither the owner nor was in possession of the land sold by him. On 09.11.2010, Krishan Kumar, Desh Raj and Ram Singh, father of Desh Raj had come to their house at Rewari and Krishan Kumar had told that Desh Raj was having 53 Kanals 1 Marla land at village Daulatabad. They also showed him Jamabandi for the year 2001-2002 and according to the said document Desh Raj was owner of land measuring 53 Kanlas 1 Marla situated at Daulatabad. They were also told that the land was free from all encumbrances. Thereafter, Desh Raj agreed to sell the entire land for an amount of Rs.1,45,89,000/- to them. The sale deed was to be executed on 11.11.2010. He paid the total sale consideration amount to Desh Raj on which sale deed bearing vasika no.1208 dated 11.11.2010 was executed. Later on, they came to know that Desh Raj was not the owner of the land sold to them and the Jamabandi shown was a forged document.

3. Petitioner Desh Raj was released on bail invoking the provisions of section 167(2) Cr.P.C. vide order dated 29.09.2011 passed by Shri Vimal Kumar, learned Additional Sessions Judge, Gurgaon. Complainant Jagmal Singh challenged the said order and this Court vide order dated 25.09.2012 set aside the order of learned Additional Sessions Judge, Gurgaon and restored the order dated 14.09.2011 passed by learned Judicial Magistrate Ist Class, Gurgaon. Thereafter, the petitioner was arrested on 31.03.2014 and since then he is in custody.

4. Heard the submissions made by Mr. Kshitij Sharma, learned counsel representing the petitioner and Ms. Mahima, Assistant Advocate

General, Haryana.

5. It was argued on behalf of the petitioner that it was mentioned in the endorsement of the Sub Registrar on the registered sale deed allegedly executed by the petitioner that no amount was paid by the complainant to the petitioner at the time of registration of the sale deed. This proves that the story of payment of total sale consideration amount had been concocted by the complainant. Learned counsel also submitted that it was mentioned in the First Information Report that the money was paid in the presence of driver and witnesses but no statement of the driver was recorded and the statement of the witnesses is silent about the said fact.

Lastly, learned counsel submitted that the presumption of innocence is in favour of the petitioner. He has already paid a good price for absconding. The trial is still likely to take some time and as such he be admitted to bail may be by imposing stringent conditions.

6. The application was opposed by learned counsel representing the State of Haryana. He submitted that two other cases one of fraud and forgery bearing First Information Report No.242/2010 and the other under Sections 392, 397 read with Section 34 I.P.C. and section 25 of the Arms Act bearing First Information Report No.6/2007 are pending against the petitioner. Prior to that he had faced trial in three cases also, detail of which is mentioned in the custody certificate filed by the State, though he was ultimately acquitted in the said cases.

7. The accusation against the petitioner is of serious nature. He in connivance with his co-accused defrauded the complainant of an amount of

Rs.1,45,89,000/- that was paid to him by the complainant as stated by the complainant and also mentioned in the sale deed. In addition to the same, there is allegation that he forged a Jamabandi to misrepresent to the complainant that he was owner of the land in order to trap him to enter into an agreement of sale with him. Another relevant fact at this stage is that the petitioner had misused the process of law despite having knowledge that his bail had been cancelled by this court vide order dated 25.09.2012 he kept absconding and could be arrested only on 31st of March, 2014.

8. In view of aforesaid facts and circumstances and without going into the merits of the case, in my considered opinion, the petitioner is not entitled to be enlarged on bail at this stage as there is every likelihood that he may misuse the concession given to him and may pressurize the witnesses. Accordingly, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

April 07, 2015
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