

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-5143 of 2015

Date of Decision: 31.3.2015

Kamruddin

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. Rishi Pal Rana, Advocate
for the petitioner(s).

Mr. Anmol Malik, Assistant Advocate
General, Haryana for the respondent.

Mr. Rajesh Lamba, Advocate
for complainant-Ajit Singh.

Mr. Jamshed Ahmed, Advocate
for Israak.

Darshan Singh, J.

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for grant of regular bail to the petitioner in case FIR No. 394 dated 22.12.2014, registered under Sections 406, 420, 467, 468, 471 & 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station Bhupani, District Faridabad.

2. As per the prosecution allegations, Smt. Jaibuna was having the lease rights for 20 years of the mine of mashodhari stone in the forest of village Pahadi, District Bharatpur, Rajasthan. The petitioner and his son Najir Hussain induced complainant-Ajit Singh, Subba and Ishraak for taking over the lease rights of the said mine. They paid

₹ 55,00,000/- to them for the transfer of the lease rights. The petitioner and his son Najir showed the papers of the lease in their favour. The complainant also started operating the mine. But lateron, in the month of April, 2014 Tejpal and Jaipal came to the site and stopped them on the plea that Jaipal had purchased the lease rights. It was alleged that in this manner, the complainant has been cheated. The accused, in connivance with their co-accused, have only executed the agreement in their favour to grab their money and the lease was transferred in the name of Jaipal Singh. The petitioner was arrested on 8.1.2015. His bail application has been rejected by the Courts below. Hence, this petition.

3. Learned counsel for the petitioner contended that petitioner-Kamruddin is an old man. He is the father-in-law of Jaibuna, the lessee and has nothing to do with the disputed money. He is in custody since the last about three months. There is no documentary evidence to prove the payment of any money to the petitioner. He further contended that as per Annexure P2, the lease amount was ₹ 25,000/- only. Even this very amount was found mentioned in the civil suit filed by the complainant and Israak. He further contended that now the matter has been settled between the parties. He has also placed on record the photocopy of the compromise. The petitioner is no longer required for the purpose of investigation. Thus, the petitioner is entitled for grant of bail.

4. Learned counsel for the complainant as well as Israak have also supported the plea of learned counsel for the petitioner with respect to the compromise effected between the parties.

5. Per contra, learned State counsel pleaded that the petitioner

has played the active role in the transaction. The complainant along with his partners have been cheated to the tune of ₹ 55,00,000/-. Thus, the petitioner does not deserve the concession of regular bail.

6. The aforesaid contentions have been duly considered.

7. This fact is not disputed that the petitioner was not having the lease hold rights of the mine in question in his name. The entire amount is alleged to have been paid in cash and learned State counsel could not point out any documentary evidence to support any payment to the petitioner. Annexure P2 is the copy of the agreement alleged to have been executed by Jaibuna, daughter-in-law of the petitioner, in favour of complainant Ajit Singh and his associates wherein the lease amount is mentioned as ₹ 25,000/- only. The complainant and Israak have also filed a civil suit in the Court of Civil Judge, Kama (Rajasthan). A copy thereof has been placed on record as Annexure P4, wherein also the lease rights are alleged to have been sold for ₹ 25,000/-. In that civil suit, the allegations are against Jaibuna and no allegation has been levelled against the petitioner.

8. Learned counsel for the petitioner as well as complainant Ajit Singh and Israak have also stated in one voice that now the matter has been settled between the parties. Complainant Ajit Singh and Israak are being compensated to their satisfaction. Even the compromise has been reduced into writing and signed by complainant Ajit Singh, Israak and Tahir Hussain son of the petitioner.

9. In view of above, no useful purpose will be served by further detention of the petitioner. Hence, the present petition is hereby allowed.

Petitioner-Kamruddin is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate, Faridabad.

(Darshan Singh)
Judge

March 31, 2015
“DK”