

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

**CRM-M-867 of 2015
Date of decision : 21.05.2015**

Baljit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. P.S.Ahluwalia, Advocate
for the petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. A.S.Sandhu, Advocate
for the complainant.

DARSHAN SINGH,J(Oral)

1. The present petition has been filed by petitioner Baljit Singh under Section 439 Cr.P.C for grant of regular bail in case FIR No. 146 dated 31.10.2014, under Sections 406, 420 of Indian Penal Code, registered at Police Station Julkan, District Patiala.

2. The brief facts of the prosecution case are that complainant Jaswinder Singh was owning 40 acres of land

and was in cultivating possession thereof. In the year 2008, he become friendly to the present petitioner Baljeet Singh @ Balli. He was illiterate. Baljeet Singh @ Balli and his wife Ramanpreet Kaur offered to make the arrangement for sending him to Canada. However, they stated that his wife Jaspal Kaur was not beautiful. Therefore, he should divorce her and they will solemnized his second marriage. They also assured that they will purchase some land in Canada in the name of the complainant. So, there will be no difficulty for his family to migrate to Canada. In this manner, the complainant was made to sell his 50 Bighas of land on 01.11.2011. The petitioner deposited half of the sale consideration of 2 crore 24 lacs in his own account. The complainant also leased out his 30 acre land to the petitioner. On 04.06.2013, petitioner went to Canada, when he returned he told the complainant that all arrangements have been made for his migration to Canada and under that pretext, he obtained his cheque book after getting the cheques signed. The accused in connivance with Ranjit Singh Manager of Axis Bank withdraw the money from Axis Bank, Devigarh from the account of the complainant. He was not paid the further amount of the sale price of his land. He kept on making false promises to sent him along with his family to Canada and thereby they committed

cheating. The present petitioner was arrested in this case on 01.11.2014. Since then he is in custody. His previous bail application was dismissed as withdrawn by this Court vide order dated 23.12.2014 due to the pendency of his bail application before the learned Courts below. Hence this petition.

3. Initiating the arguments, learned counsel for the petitioner contended that all the allegations levelled against the petitioner stands falsified from the bank statements and other documentary evidence. He contended that the main allegation against the present petitioner was that out of the sale price of Rs. 2 crore 24 lacs, half of the amount has been got deposited by the petitioner in his own account. But, these allegations are falsified from the bank statements. Rather, the complainant has received the amount by R.T.G.S. He further contended that these allegations have even been found false in the investigation which is evident from the status report filed by the Harvinder Singh Virk, Deputy Superintendent of Police (Rural), District Patiala. He further contended that in the status report a new story has been put-forward that the land was actually sold for 3 crore 12 lacs, but the complainant told that sale consideration was Rs.2 crore 24 lacs and in this manner Rs. 88 lacs was usurped by the petitioner. He contended that the

respondent-State has placed on record the photocopy of the agreement to sell dated 10.08.2011 which shows that the same was executed by complainant Jaswinder Singh himself. He has himself settled the sale price and even received Rs. 60 lacs as earnest money in presence of the witnesses. It is not disputed that even the sale deed was executed by the complainant himself. Then, how petitioner can conceal the real sale price when the transaction was finalised and executed by the complainant himself. He contended that the allegations levelled by the complainant in the FIR have been found false in the investigation, which is evident from the status report. He further contended that petitioner is in custody for the last six and half month and case is triable by the Magistrate First Class. So, the petitioner deserves the concession of bail.

4. On the other hand, learned State counsel assisted by Mr. A.S.Sandhu, Advocate, learned counsel for the complainant pleaded that the petitioner has played a fraud with the complainant and cheated him to the tune of Rs. 88 lacs by wrongly telling the sale price of the land as 2 crore 24 lacs instead of 3 crore 12 lacs. They further contended that the petitioner has received Rs.42 lacs from the purchaser of the land. Thus, he does not deserves the concession of bail.

5. I have duly considered the aforesaid contentions.

6. This fact is not disputed that the new facts have been revealed in the status report filed by the Harvinder Singh Virk, Deputy Superintendent of Police (Rural), District Patiala in the status report. It is also not disputed that the agreement to sell dated 10.08.2011 for the sale of land measuring 50 Bigas 6 Biswas has been executed by complainant Jaswinder Singh himself settling the sale price and has also received Rs. 60 lacs as earnest money in presence of the witnesses. It has also not been disputed that he has himself has executed the sale deed. So, it is quite debatable as to how the petitioner could be able to disclose him the less sale price and these disputed question of facts are to be ascertained on appreciation of the evidence.

7. All the offences alleged against the petitioner are triable by the Magistrate First Class. The petitioner is in custody for the last more than six and half month. The investigation is already complete and even report under Section 173 Cr.P.C has been presented in the Court on 29.12.2014. It is settled principle of law that the bail should not be denied as a measure of punishment. Thus, the further detention of the petitioner in jail will not serve any purpose.

8. In view of the aforesaid discussion, the present

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petition is hereby allowed and petitioner Baljit Singh is ordered to be released on bail on furnishing requisite bail bonds to the satisfaction of the learned trial Court.

21.05.2015

s.khan

**(DARSHAN SINGH)
JUDGE**