

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision:25.01.2016

1. Crl. Misc. No. M-44263 of 2015

Ram Murti Petitioner
Versus
State of Punjab Respondent

2. Crl. Misc. No. M-215 of 2016

Gurmukh Singh Petitioner
Versus
State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Amit Shukla, Advocate for Mr. Sunil Kumar Sharma,
Advocate for the petitioner in Crl. Misc. No. M-44263 of
2015.

Mr. L.S. Sidhu, Advocate for the petitioner in
Crl. Misc. No. M-215 of 2016.

Mr. R.S. Randhawa, Additional Advocate General, Punjab.

Jaswant Singh, J. (Oral)

This common order shall dispose of afore-mentioned petitions seeking regular bail under Section 439 Cr.P.C on behalf of Ram Murti and Gurmukh Singh nominated as accused in FIR no.176 dated 8.11.2015 registered under Sections 420, 120-B IPC, Police Station Garhshankar, District Hoshiarpur.

As per the allegations launched by complainant Makhan Singh, accused Gurmukh Singh and Ram Murti had entered into an agreement to sell dated 4.7.2012 for sale of 150 acres of land @ Rs.3,30,000/- per acre, they had received a sum of Rs.1,14,50,000/- as earnest money, the target date for execution of the sale deeds was 4.7.2013. The sale deeds were to be executed after the agriculture lands were demarcated and clearance from

the Forest Department obtained. The sale deeds were got executed qua 5/6 acres of land only. Since neither the remaining money was refunded nor sale deeds executed after getting clearance from the Forest Department and land demarcation, the afore-mentioned FIR was lodged. Even the cheque seeking to refund the earnest money is stated to have bounced for which Ram Murti stood convicted. It is contended on behalf of both the petitioners that the dispute is essentially of civil nature and the clock of criminal nature is being sought to recover the amount while even a suit for specific performance or return of money has not yet been filed. It is next submitted that both the petitioners are in custody since 13.11.2015 and after completion of the investigations, challan has been presented.

Learned State Counsel, on instructions from ASI Subhash Chander is unable to refute the factual position regarding the custody period and that after investigation, challan has been presented.

Learned counsel for the petitioners submit that the case is triable by Magistrate.

Without commenting on the merits of the case and keeping in view the custody period undergone by the petitioners and the fact that the challan has been presented, no useful purpose would be served by keeping in the petitioners in custody, the present petitions are allowed and the petitioners are ordered to be released on bail subject to satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Hoshiarpur.

A photostat copy of this order be placed on the connected file.

25.01.2016
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(JASWANT SINGH)
JUDGE