

CRM-M-26730-2016

Date of Decision : 19.08.2016

Manjinder Singh Sodhi

.....Petitioner

versus

State of U.T. Chandigarh

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. J.S. Bedi, Senior Advocate with
Mr. Harpreet Multani, Advocate
for the petitioner.

Mr. Sukant Gupta, APP, UT, Chandigarh.

Mr. P.S. Ahluwalia, Advocate
for the complainant.**M.M.S. BEDI, JUDGE (ORAL)**

Petitioner had been granted concession of regular bail by the Chief Judicial Magistrate, Chandigarh. His bail was cancelled by this Court vide order dated 20.05.2016 as the Chief Judicial Magistrate, Chandigarh had misconstrued the orders of the High Court and the Supreme Court granting concession of bail to the petitioner. The said order of cancellation of bail was upheld by the Apex Court with an observation that the petitioner could apply for bail after surrendering before the trial Court and that the trial Court shall decide the application within a period of one week. The trial Court has dismissed the bail application and even the bail application filed by the petitioner before the Sessions Court has also been dismissed. In the above circumstances, the petitioner has approached this Court for regular bail during the pendency of the trial, being in custody with effect from 04.07.2016.

The brief facts of the case of prosecution registered at the

instance of complainant Rakesh Jain is that the petitioner having connived with his son Arunjot Singh Sidhu and Hemraj Thakur represented to the complainant that one Jagjit Singh had already entered into an agreement of sale with owner of the land namely Jagtar Singh and they persuaded the complainant to purchase the said land and allured him that they would get the land sold for a price of Rs.4 crores within a period of one year. The complainant relied upon the proposal of petitioner and other co-accused and agreed to execute an agreement and paid earnest money of Rs.1.15 crores by way of six cheques and Rs.35 lacs in cash to the petitioner. The complainant later on came to know that Jagtar Singh had not entered into any agreement of sale with Jagjit Singh and in fact, after entering into agreement with complainant, co-accused of the petitioner namely Arunjot Singh had entered into an agreement with Jagtar Singh, by paying a sum of Rs.40 lacs, the amount which was actually given by complainant to him. The complainant later on came to know that Jagjit Singh was a dummy person on behalf of the petitioner and Arunjot Singh and that Jagtar Singh was not even the owner of the land as projected. So far as the petitioner is concerned, the allegations against him are that he had purchased a car from the amount given by the complainant as sale consideration.

The counsel for the petitioner has vehemently contended that the petitioner is an old man and his co-accused namely Arunjot Singh and Jagjit Singh have already been granted concession of bail. So far as the allegation that petitioner having purchased a car from the

money received from the complainant is concerned, it has been urged that the petitioner had purchased the vehicle from the amount spent by his son Arunjot Singh, which amount has nothing to do with the allegations levelled by the complainant.

Learned counsel for the complainant has intervened to oppose the application for regular bail highlighting the mode and manner in which the fraud has been played upon the complainant. He has vehemently urged that as a matter of fact, Jagtar Singh is not even the owner of the property and that the dummy person Jagjit Singh is none else but driver of the petitioner and his son Arunjot Singh. He has argued that on account of close intimacy of the complainant with the petitioner and his son, the complainant has been duped. He has submitted that as a matter of fact there had not been any agreement between Jagtar Singh and Jagjit Singh. The agreement was created only after a sum of Rs. 1.15 crore had been paid by the complainant to the petitioner which amount was actually handed over to Jagtar Singh to create a fake document. He has argued that another sum of Rs. 35 lacs has been paid to the petitioner in cash.

It has also been argued by counsel for the complainant that on account of political influence of the petitioner, the complainant was involved in a false criminal case in a pre-planned fraudulent scheme.

Learned counsel for the petitioner has contended that in fact no fraud has been played with the complainant and that the petitioner is still ready to perform his part of the agreement in case the complainant

is ready to pay the balance sale consideration. It has been undertaken that sale deed can be executed forthwith on the basis of agreement of sale, which has been executed by the complainant with Jagjit Singh.

I have considered the contentions of the counsel for the petitioner as well as counsel for the complainant. No doubt the petitioner has been able to obtain an illegal order of bail by concealment of the observations of the High Court and Supreme Court. But he, having surrendered on 04.07.2016 and having been in custody since then, can be granted the concession of regular bail on the principle of parity as co-accused of the petitioner, similarly circumstanced, have been granted the concession of bail and the circumstances for consideration of pre-arrest bail are certainly different from the parameters which have to be applied at the time of consideration of bail application under Section 439 Cr.P.C.

Petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

This order will not prejudice the right of the complainant in any other civil or criminal litigation pending between the parties.

(M.M.S. BEDI)
JUDGE

19.08.2016
Neha

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No