

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

CRM-M-30693-2017 (O&M)

Date of decision: - 25.8.2017

Manohar Lal and ors

.....Petitioners

versus

State of Punjab

.....Respondent

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN.

Present: - Mr.Divjyot Singh Sandhu, Advocate
for petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

ARVIND SINGH SANGWAN, J (ORAL)

This is a petition under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 101 dated 18.7.2017 under Sections 420, 465, 467, 468, 471, 474, 120-B IPC and Section 13-A of the Punjab Village Common Land Act, registered at Police Station Sadar, Kapurthala, District Kapurthala.

Learned counsel for the petitioners submits that vide resolution dated 17.9.2001, passed by the Gram Panchayat, Khojewal, Kapurthala (Annexure P-1), 46 persons were allotted 5-5 marlas of plots under a Scheme meant for the landless persons and the petitioners belong to the same category. In the said resolution, petitioners figures at Sr. No. 2, Sr. No. 17 and Sr. No. 31 respectively. He further submits that on the basis of said resolution, the then Block Development Panchayat Officer (BDPO) passed the order dated 23.5.2003, in view of the policy of the State of Punjab as well as the resolution passed by the Nagar Panchayat and accordingly mutation No. 1057 was sanctioned, transferring the ownership of aforesaid 5 marlas plot each in favour of the allottees.

It is further submitted that thereafter, petitioners have constructed the houses and are living with their families. He further submits that now in the year 2017 the same Sarpanch who had passed the aforesaid resolution dated 17.9.2001, has lodged a complaint with the police for registration of the aforesaid FIR on the ground that in fact the BDPO who passed the order was not competent.

Learned counsel for the petitioners further submits that till date there is no order from any competent Court of law to hold that the petitioners were not eligible for allotment made in favour of the petitioners. He further submits that petitioners are in judicial lock up since 19.7.2017; offences are triable by the Court of Magistrate and will take long time in conclusion of the trial.

Learned State counsel on instructions from H.C. Harjinder Pal Singh has opposed the concession of bail to the petitioners on the ground that FIR was registered on the basis of a report in which 23 persons were not found to be eligible. In reply, learned counsel for the petitioners submits that period of more than 17 years have already lapsed and that since the time petitioners were allotted the plots and they have raised constructions and the fact that complainant is the same Sarpanch who has passed the resolution on 17.9.2001, it was well within the knowledge of the complainant that petitioners have raised the construction of the houses.

In view of above submissions, however, without commenting on the merits of the case, present petition is allowed. Petitioners are directed to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Kapurthala.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioners are found involved in any other subsequent case or found misusing concession of bail.

25.8.2017
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No