

Sr. No.221

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

CRM No. M-13260 of 2018 (O&M)

Date of Decision: 06.04.2018

Gurbachan Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Ms. Rahish Pahwa, Advocate,
for the petitioner.

Mr. S.S.Sandhu, AAG, Punjab.

Mr. Karambir Singh Chawla, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J.

Petitioner seeks benefit of regular bail pending trial in case FIR No.03 dated 09.01.2018 under Sections 420, 406, 120-B and 201 (added later on) IPC registered at Police Station Machhiwara, District Ludhiana.

Counsel for the parties have been heard at length.

Briefly noticed, allegations are founded on the basis of non-performance of contractual obligations arising out of two agreements to sell that were stated to have been entered into between the complainant Mangaljit Singh on the one hand and Sikander Singh as also Kikar Singh on the other.

Present petitioner is sought to be implicated on the basis that he was an attesting witness to the agreement to sell.

During the course of arguments, it has gone uncontroverted that the entrustment of the earnest money was to co-accused Sikander Singh/Kikkar Singh. There is no entrustment of money in the hands of the present petitioner.

Case of the prosecution is that present petitioner is involved in the conspiracy inasmuch as subsequent in point of time an agreement had been entered into between the co-accused Sikander Singh and father of the present petitioner, namely, Bhajan Singh qua the same parcel of land.

Investigation in the case is complete and challan has been presented on 03.03.2018.

Charges are yet to be framed. Trial, as such, would take time to conclude.

Petitioner has faced incarceration since 09.01.2018.

Co-accused Bhajan Singh has been granted benefit of regular bail by this Court in the light of order dated 19.03.2018 in CRM No.M-7350 of 2018.

It is also the conceded position of fact that the complainant has already taken resort to his civil remedy in having instituted a suit for specific performance, permanent injunction and in the alternate, for recovery, based upon the agreement to sell in question.

Offences are triable by the Court of Magistrate.

The role, if any, of the present petitioner against the backdrop of the allegations would be an aspect to be considered by the trial Court.

In the considered view of this Court, no useful purpose would be served by keeping the petitioner in custody till the culmination of the trial.

Petition is allowed.

Petitioner be enlarged on bail subject to satisfaction of the trial Court/Duty Magistrate concerned.

It is clarified that observations made by this Court in this order are confined only as regards considering the prayer of the petitioner for grant of regular bail and would have no bearing on the merits of the case.

Disposed of.

06.04.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No