

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

CRM-M-36512-2018 (O&M)

Date of Decision:- 6.9.2018

Makhan Lal Bansal

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Isha Goyal, Advocate, for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

Petitioner Makhan Lal Bansal has filed this petition seeking grant of bail in respect of a case registered against them vide FIR No.238 dated 22.6.2018 under Sections 406 and 420 IPC, Police Station Zirakpur, District S.A.S. Nagar.

The FIR in question was lodged at the instance of Naresh Gaurav Mittal who alleged that Makhan Lal Bansal and Nitin Bansal are builders in Zirakpur, Mohali and were known to him and had allured him into buying a flat for a total consideration of ₹36,65,000/- out of which an amount of ₹14,47,705/- was paid to them and pursuant to payment of the said amount allotment letter is stated to have been issued. The complainant further alleged therein that subsequently upon his insistence for extending a

loan facility for making the balance payment, the accused handed over possession of the flat to the complainant. However after receiving the physical possession and after having spent an amount of ₹3,00,000/- upon the same, he came to know that the entire property already stood mortgaged with the bank for an amount of ₹28 crores and the bank had pasted possession notice on his premises on 30.7.2016. It is thus alleged that the accused had cheated him by selling him a mortgaged property.

Notice of this petition was issued to the State.

Learned State counsel has opposed the present petition.

Learned counsel for the petitioner has submitted that the petitioner had been falsely implicated in the present case and that it is not the petitioner but both of his sons namely Nitin Bansal and Sunny Bansal who are the partners in the firm namely M/s NH Matcon, a firm which had floated the project by the name of 'Aero Homes' and that the petitioner has been implicated simply to pressurize his sons.

Learned counsel has further submitted that in any case the petitioner had himself admitted that the possession of the property in question had been handed over to him.

On the other hand learned State counsel has submitted that since the factum of the property having been mortgaged with the bank had not been disclosed by the accused, therefore, it is apparent that the petitioner and his son had cheated the complainant. It has further been submitted that during inquiry it had been found that the petitioner was always present at the site and at the office of the firm where gullible investors used to visit and

had invested in the project and that in these circumstances, concession of bail cannot be extended to the petitioner.

Having considered the rival submissions addressed before this Court and especially bearing in mind the fact that the petitioner is not a partner in the firm and is stated to be aged about 60 years and has been in custody since the last more than one month, in my opinion, no useful purpose would be served by further detaining the petitioner behind bars as the trial in its normal course is likely to take some time for its conclusion. The petition, as such, is accepted. Petitioner Makhan Lal Bansal is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Duty Magistrate, Dera Bassi.

September 6, 2018

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No