

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

Sr. No.207

CRM-M-37702-2018
Date of decision : 7.12.2018

Harnek Singh @ Mintu

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. A.D.S Sukhija, Advocate, for the petitioner.

Mr. K.S. Sidhu, DAG, Punjab

Mr. P.S. Ahluwalia, Advocate, for the complainant.

SUDHIR MITTAL, J. (Oral)

The petitioner seeks regular bail in case FIR No.28 dated 5.5.2018, registered at Police Station Satnampura, District Kapurthala, under Section 36 (1) (3) of the Punjab Apartment and Property Regulation Act, 1995 (Sections 420, 465, 467, 468, 471 120-B IPC added later on).

The allegations in the FIR are that one Jaswant Singh Mehat son of Milkha Singh, applied for regularization of a residential colony without supplying the requisite documents and depositing the requisite fee. He obtained illegal benefit of the regularization policy of the Government and sold plots causing financial loss to the Government as well as the members of the general public.

During the course of investigation, it transpired that the application allegedly given by Jaswant Singh Mehat (aforementioned), was infact given by the petitioner by forging the signature of Jaswant Singh Mehat. Consequently, the petitioner was named as an accused and Sections 420, 465, 467, 468, 471 120-B IPC, were added.

Learned senior counsel for the petitioner submits that the investigation in this case is complete as the challan stands presented. Till date, the petitioner has not been asked to give his specimen signatures and therefore, his conviction for forgery is unlikely. The offence under Section 420 IPC, is also not attracted as the petitioner has not induced Jaswant Singh Mehat to part with property by making a false representation. Even if, the colony is illegal, no third party rights have been created and thus, members of the general public also have not been defrauded. The petitioner has been in custody since 17.5.2018. The trial is not likely to be concluded at an early date as examination of PWs has not yet started. Thus, the petitioner be released on regular bail.

Learned State counsel opposes the prayer on the ground that forgery is writ large as Jaswant Singh Mehat was in London on the date application was submitted before the Municipal Corporation, Phagwara. The petitioner has also forged agreements to sell in favour of the members of the general public and the alleged vendees thereof have got their statements recorded under Section 161 Cr.P.C. implicating the petitioner. Thus, the petitioner does not deserve to be released on regular bail.

Learned counsel for Jaswant Singh Mehat supports the stance of the State. He submits that from the facts and circumstances of this case, it is evident that the petitioner wanted to frame Jaswant Singh Mehat knowing fully well that he was in London. An illegality was committed by

submitting incomplete documents for regularization with the intention of obtaining a document from the aforementioned Municipal Corporation portraying that regularization was in progress so that members of the general public could be defrauded by representing that in fact the regularization had been obtained. Thus, from the very beginning the intention of the petitioner was to avoid his own liability and to falsely implicate Jaswant Singh Mehat. Similar, modus operandi has been followed in two other projects and there are three separate FIRs registered against the petitioner. Under the circumstances, the petitioner does not deserve to be released on regular bail.

From the arguments of the learned counsel, it is clear that no third party rights have intervened. The fight is between Jaswant Singh Mehat and the petitioner. It is also not in dispute that as on date, the land in respect of which regularization was sought, is no longer available as the vendors thereof have been directed by the civil Court to refund the money obtained from the petitioner and his partner. Thus, the Punjab Apartment and Property Regulation Act, 1995 goes out of the picture. That leaves us with the allegation of forgery and fraud. It appears that partners are at logger heads and it would be premature and inappropriate for me to opine on their dispute in this bail application. The petitioner has been in custody for over 06 months and the trial is not likely to be concluded at an early date. Thus, there is no reason not to release him on bail during the pendency of the trial.

Keeping in view the facts and circumstances of this case, I deem it appropriate to allow this petition. Accordingly, the petition is allowed and petitioner-Harnek Singh, is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court

concerned, subject to conditions of deposit of his passport and furnishing of security in terms of immovable property as well as two solvent sureties.

(SUDHIR MITTAL)
JUDGE

7.12.2018
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No