

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

**Criminal Misc. No. M-39260 of 2018
Date of decision: 24.12.2018**

Rana Hardeep Singh

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. R.S. Rai, Sr. Advocate with
Ms. Rubina Virmani, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab
for the respondent -State.

Mr. K.S. Nalwa, Advocate and
Mr. Adhiraj Thind, Advocate
for the complainant.

Daya Chaudhary, J.

Prayer in the present petition is for grant of regular bail to petitioner-Rana Hardeep Singh in case FIR No.75 dated 25.12.2016 under Section 420 read with Section 120-B IPC (Sections 465, 467, 468, 471 were subsequently deleted) registered at Police Station Mullanpur Garibdass, District SAS Nagar (Mohali) during pendency of the trial.

Learned senior counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas no offence is made out under Section 420 IPC. The factum of mortgage of property was already mentioned in the agreement to sell, which was in the knowledge of the complainant. Learned counsel also submits that there was delay of two years in lodging of the FIR. The matter was investigated by the Police and

challan was presented against co-accused Rana Prabhdeep Singh only under Sections 420, 465, 467, 468, 471, 120-B IPC on 12.08.2017. Learned senior counsel also submits that in the final report filed under Section 173 Cr.P.C., it was specifically mentioned that arrest of accused-petitioner (Rana Hardeep Singh) is pending and supplementary challan would be presented against him after his arrest. Learned senior counsel also submits that the petitioner was arrested on 01.03.2018 and supplementary challan was presented by the Investigating Agency on 13.06.2018 only under Sections 420, 120-B IPC and offences under Sections 465, 467, 468, 471 IPC were deleted. Learned senior counsel also submits that when Sections 465, 467, 468, 471 IPC were deleted, there was no question of fabrication/forging of any document. Even no offence is made out under Sections 420 and 120-B IPC. Learned senior counsel also submits that the land in dispute was mortgaged with the Bank and it was clearly mentioned in the agreement to sell and it cannot be said that the complainant was misguided or cheated in any manner. Learned senior counsel also submits that intention of the petitioner was always to execute the agreement to sell and he is still ready to execute the same but it is only the complainant, who has refused and is not interested in execution of sale deed. Even all efforts have been made to dispose of the property to settle the dispute with the complainant as the case is pending before BIFR. The dispute between the parties is of civil nature as the complainant has filed a civil suit for recovery of amount against the petitioner's company on the same set of allegations. Co-accused of the petitioner has been released on regular bail. At the end, learned senior counsel for the petitioner submits that nothing is to be recovered from the

petitioner and offence is triable by the Magistrate.

Learned State counsel has not disputed the custody period as well as release of co-accused on regular bail as per provisions of Section 167(2) Cr.P.C. but has opposed the submissions made by learned senior counsel for the petitioner on the ground that initially, FIR was registered under Sections 420, 465, 467, 468, 471 read with Section 120-B IPC but subsequently, offences under Sections 465, 467, 468, 471 IPC were deleted and challan was presented only under Sections 420 and 120-B IPC. Further investigation was conducted under Section 173(8) Cr.P.C. and thereafter, supplementary challan was presented under Section 420 and 120-B IPC.

Mr. K.S. Nalwa, Advocate appearing for complainant has vehemently opposed the submissions made by learned senior counsel for the petitioner and submits that the Investigating Agency was in connivance with the accused and supplementary challan was presented without seeking formal permission from the Court during pendency of the trial. The accused-petitioner and his co-accused had shown *jamabandi* to the complainant at the time of sale agreement but there was no mention of any amount of mortgage and it was disclosed orally that a loan of ₹25,00,000/- was outstanding. The complainant was induced by the accused party to pay an amount of ₹2,25,00,000/- as earnest money. The *jamabandi*, which was shown to the complainant was found to be forged during investigation, as is clear from the statement of Halqa Patwari recorded under Section 161 Cr.P.C. wherein it was stated that the said *jamabandi* was never issued by the department. Learned counsel for the complainant further submits that the present petition is liable to be dismissed on the ground of concealment

of material facts as in para No.3 of the petition, it has been stated that the petitioner received an amount of ₹50,00,000/- as earnest money on 29.01.2014 for sale of 7 acres 5 kanals (61 kanals 6 marlas) of land @ ₹68,00,000/- per acre with the total consideration of ₹5.18 crores whereas even there is no passing reference by the petitioner that he or his family members received an amount of ₹2.25 crores prior to the date of registry i.e. on 20.08.2014, which was extended on the request of the petitioner to 31.01.2015. Learned counsel for the complainant also submits that the petitioner has also concealed this fact that he is not the owner of property in his individual capacity and the land in dispute was owned by Rana Mohendra Papers Ltd. and through a resolution dated 27.01.2014, the petitioner being the Director and his father being Chairman of the company, had resolved that the petitioner was authorized and empowered to sell, transfer and assign free hold land holding to the complainant. It has also been concealed from the complainant that a loan amount of more than ₹18 crores was outstanding against the land in dispute with Punjab State Cooperative Bank whereas orally it was informed that the loan of ₹25,00,000/- is pending. It has also been concealed by the petitioner that the regular bail application filed by co-accused Prabhdeep Singh, who is brother of the present petitioner, was dismissed by this Court vide order dated 03.05.2017 passed in Criminal Misc. No. M-12355 of 2017. The complainant approached this Court by way of filing Criminal Misc. No. M-20008 of 2017, which is pending for 19.12.2018. Co-accused, namely, Rana Prabhdeep Singh, was released on bail under Section 167(2) Cr.P.C. and not on merits because of repeated inquiries conducted even after

registration of FIR. Thereafter, the complainant again filed Criminal Misc. No. M-20685 of 2018 seeking presentation of report under Section 173(8) Cr.P.C. in case FIR No.75 against the petitioner before completion of period of 90 days as it was deliberately delayed to help the petitioner in getting benefit under Section 167(2) Cr.P.C., which is pending for 11.01.2019 after issuing notice of motion. Learned counsel for the complainant also submits that the investigating agency is helping the accused persons and even has not nominated the father of the petitioner as accused whereas he signed the Board Resolution of the company being Chairman. At the end, learned counsel for the complainant submits that the complainant has paid an amount of ₹2.25 crores through cheques, which were issued in the name of company and cash also after self-withdrawal from his bank account and account of his family members, which were handed over to the petitioner and his brother. A suit has also been filed for recovery against the company of the petitioner and its Chairman/Directors. The petitioner repaid an amount of ₹20,00,000/- to the complainant before the Inquiry Officer prior to registration of the present FIR in October 2016.

Heard arguments of learned senior counsel for the petitioner; learned State counsel as well as counsel for the complainant and have also perused the contents of the FIR and other documents available on the file including the documents placed on record by learned counsel for the complainant in the Court.

Undisputedly, the regular bail petition filed by co-accused, Rana Prabhdeep Singh, who is brother of the petitioner, has been dismissed by passing a detailed order on 03.05.2017 in Criminal Misc. No. M-12355

of 2017 wherein it has been stated that there are specific allegations of stamp papers worth ₹2,000/- having been purchased by him in the name of his brother i.e. Rana Hardeep Singh (the present petitioner) upon which the agreement to sell has been scribed on 29.01.2014. A part of earnest money i.e. ₹1,00,00,000/- was allegedly entrusted to both the accused.

The petitioner as well as complainant have stated different facts with regard to amount of sale consideration and forging of documents. It is also not disputed that a suit for recovery of amount has been filed by the complainant, which is still pending. Co-accused of the petitioner, namely, Rana Prabhdeep Singh, has been released on bail as per provisions of Section 167(2) Cr.P.C. However, parity cannot be claimed by the petitioner as the bail was granted to co-accused on technical grounds. Disputed question of facts cannot be considered in this petition of bail as it is a matter of evidence, which shall be tested by the trial Court during trial. The investigation has been completed as challan has been presented. The offence is triable by the Magistrate. The petitioner is in custody since 01.03.2018, which comes to more than 9½ months.

Although it has been pointed out by learned counsel for the complainant that there was delay on the part of the Investigating Officer in conclusion of the investigation and avoiding the arrest of the petitioner. Different applications were moved by the petitioner on various occasions for exemption from personal appearance. The delay has been caused by the accused party.

Accordingly, by considering the custody period since 01.03.2018 and the fact that co-accused of the petitioner has been released

.....

on bail; offence is triable by the Magistrate; no purpose would be served by keeping the petitioner in custody as challan has been presented and charges have been framed; custodial interrogation of the petitioner is not required and the civil suit for recovery of amount has also been filed by the complainant, which is still pending, the present petition is allowed and the petitioner (Rana Hardeep Singh) is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

24.12.2018
neetu

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No