

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53112-2018
Date of decision: 13.12.2018

Rohit @ Kuku

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Anita Balyan, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Sandeep Vermani, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.364 dated 26.12.2017 under Sections 323, 506, 470, 468, 471, 448, 419, 420, 120-B IPC, registered at Police Station Sector-9A, Gurugram.

Learned counsel for the petitioner, at the very outset, submits that co-accused Suman Lata, against whom there are allegations that she is vendor of the sale deed, on the basis of which the present FIR has been registered, has already been granted the concession of regular bail by the Additional Sessions Judge, Gurugram.

The operative part of the order, granting bail to co-accused Suman Lal, reads as under: -

“Brief facts of the prosecution case are that GPA No.1037 dated 30.8.2017 was forged in favour of Suman Lata. One Angad son of Pyare Lal (since deceased) was impersonated by co-accused Shyam Dev and a House No.245, Laxman Vihar, Phase-II, Gurugram, was sold to one Laxman wife of co-accused Virender. The house in question was owned and possessed by complainant Prabhu Nath. On the basis of these allegations, FIR was registered. Accused Suman Lata, Rohit @ Kukku, Virender, Shyam Dev Bhatti @ JP have been arrested in this case, photocopy of alleged GPA No.1037 was taken in police possession. Co-accused Rahul, Laxmi and Vyas are yet to be arrested in this case. On completion of investigation, final report u/s 173 Cr.P.C. has been presented in the Court.

Learned counsel for the petitioner-accused has vehemently contended that petitioner-accused has been falsely implicated and no case is made out against her. The alleged GPA is not of House No.245 but the same pertains to House No.243 in the name of Smt. Guddu, who is also not an aggrieved party before the Court and in such circumstances, it cannot be said that any offence under section 420 of IPC has been committed by the accused. The ingredients of commission of offences under sections 467, 468, 471 of IPC are not made out and no recovery is to be effected from the possession of the petitioner-accused. The petitioner-accused is in custody since 24.7.2018 and no useful purpose would be served by further detention of the accused into custody and drawing reliance

upon the judgments Gyanchan Agrawal @ Gyani v. State of Chhattisgarh, 2007 (3) CCJ 612 (Chhattisgarh) and Md. Ibrahim & others vs. State of Bihar, 2009 (4) RCR (Criminal) 369 (SC), it has been prayed that concession of bail to be granted to the petitioner-accused.

Per contra, learned Public Prosecution for the State has contended that allegations levelled show that forged GPA has been prepared by the accused in criminal conspiracy with each other and also disclosure statement of the accused shows that error is there and the GPS was to be of House No.243 instead of House No.245 as the same was intended but it is only typographical error that the GPS has been stated to be of House No.243. He further contended that the fraud has been committed by the accused and it was, after the complainant gained knowledge when he came back to Gurugram, he became aware of the said fraud and he was also beaten up by the accused and was turned away threatening him of dire consequences. In such circumstances, when the allegations are of serious nature and arrest of the co-accused is yet to be effected, bail application of petitioner-accused be disallowed.

After carefully perusing the case and file and going through the respective submissions advanced, this Court is of the considered view that in the present case, the offence is by way of documents and the allegations have been levelled that the accused had forged a GPA of House No.245 but the same pertains to the

House No.243 as is clear from the police record. The house No.243 is in the name of Guddi and she has not been arrayed as aggrieved person and in such circumstances and without commenting upon the merits of the case, this Court deem it a fit case to allow regular bail to the petitioner-accused as she is in judicial custody since 24.7.2018 and no useful purpose would be served by further detention of the accused into custody. Accordingly, bail application is allowed and the petitioner-accused shall be released on regular bail on her furnishing bail bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the learned Area/Duty Magistrate. A copy of this order be sent to the learned Area/Duty Magistrate for compliance.”

Learned counsel for the petitioner further submits that the petitioner is in custody since 26.07.2018 and is not required for further custodial interrogation and there are no allegation in the FIR that the petitioner, in any manner, had signed the sale deed either as a witness or purchaser of the property. It is further submitted that the challan qua the petitioner has already been presented; the case is triable by the Court of Magistrate and it will take some time in conclusion of the trial and only allegation against the petitioner is that of conspiracy with other co-accused.

Learned State counsel, on instructions from ASI Sanjay Kumar and assisted by learned counsel for the complainant, submits that two co-accused of the petitioner, namely Laxmi and Vyas are yet to be arrested.

Without commenting anything further on merits of the case,

considering the aforesaid submissions, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

13.12.2018

vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No