

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

CRM-M-3547-2019
Date of decision: 27.05.2019

Pankaj Birla

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. B. S. Khehar, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. Sudhir Hooda, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 409 dated 27.07.2018, registered under Sections 406, 420, 467, 468, 471, 506 and 120-B of the IPC at Police Station City, Yamuna Nagar.

Learned counsel for the petitioner relies upon order dated 21.01.2019, passed by this Court in CRM-M-55759-2018, vide which, co-accused Sanjeev Kumar was granted concession of regular bail by passing the following order:

“Learned counsel for the petitioner submits that as per the allegations in the FIR, the complainant has stated that co-accused Anil Kumar has induced the complainant and her husband to part away certain amount for starting a chit fund company and in that process, the complainant and her husband had given Rs. 2.4 Lakh to Anil Kumar in installments. Later on, accused persons, by hatching a criminal conspiracy, obtained signatures of the complainant and her husband on a blank paper by affixing revenue stamp and photographs and have

converted the same into an agreement to sell of complainant's house to co-accused Anil Kumar for a sum of Rs. 44.5 Lakh and have shown that the complainant has received Rs. 22 Lakh as earnest money. The FIR has been registered on the premises that aforesaid agreement to sell is a forged and fabricated document and the accused persons have cheated the complainant and her husband.

Learned counsel for the petitioner further submits that petitioner was not named in the FIR and as per investigation carried out so far, he is found to be only an attesting witness to the aforesaid agreement to sell and he is not the beneficiary of the same.

It is further stated that petitioner is in judicial custody since 19.10.2018 and challan stands presented and the offences are triable by the Court of a Magistrate. It is also submitted that petitioner is not involved in any other case.

Learned Stat counsel, on instructions from the Investigating Officer, submits that petitioner is also an accused in one earlier FIR No. 619 dated 23.10.2017, registered under Sections 148, 149, 323, 427, 452 and 506 of the IPC at Police Station City, Yamuna Nagar for extending threats to the complainant and her husband and the said FIR was registered against 7/8 persons including the petitioner.

Learned counsel for the complainant has submitted that some other complaints are also under investigation against the petitioner and also submitted that anticipatory bail application of co-accused Anil Kumar was dismissed, vide detailed order dated 24.09.2018, passed by this Court in CRM-M-41149-2018.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is not the beneficiary of the aforesaid agreement to sell and has only identified a co-accused whose identification is not in dispute and also considering the custody period of the petitioner and the fact that offences are triable by the Court of a Magistrate and it will take a long time in conclusion of the trial, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.”

Learned counsel for the petitioner submits that petitioner Pankaj Biral is also not the beneficiary of the agreement to sell and his role is only of an attesting witness.

Learned State counsel, on instructions from HC Anil Kumar, has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that similarly situated co-accused of the petitioner, namely Sanjeev Kumar, has already been granted concession of regular bail as noticed above; the petitioner is in judicial custody since 14.11.2018 and the trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

27.05.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No