

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

CRM-M-17480 of 2019
Date of Decision:16.05.2019

Shamsher Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. M.S. Khillan, Advocate
for the petitioner.

Mr. Yashwinder Singh, DAG, Haryana.

Mr. Abhinav Sood, Advocate
for the complainant.

MAHABIR SINGH SINDHU, J.(Oral)

Present petition has been filed under Section 439 Cr.P.C.
seeking bail pending trial in case FIR No. 392 dated 10.10.2018,
under Sections 406 and 420 of the Indian Penal Code, registered at
Police Station Nissing, District Karnal.

Learned counsel for the petitioner contends that although
there are allegations in the FIR for criminal breach of trust as well
cheating but in fact Rs. 14 lakhs were paid by the complainant to
settle his account with the firm of petitioner, and remaining amount
had been invested by the complainant in their firm to earn the interest.
Further contends that petitioner is in custody since 22.01.2019 and
investigation is already over, the trial of the case would take a

sufficient long time, therefore, no useful purpose would be served by detaining the petitioner behind the bars.

On the other hand, learned State counsel has opposed the bail application and submits that there is one more FIR bearing No. 250 dated 12.07.2018 under Sections 406 and 420 of the Indian Penal Code at Police Station Nissing pending against the petitioner. Further contends that after investigation report under Section 173 Cr.P.C. was submitted on 20.03.2019 before the Court of competent jurisdiction and charges have also been framed on 25.04.2019. Also contends that there are total 18 prosecution witnesses, but none has been examined till date and now the case is fixed for 21.05.2019, for prosecution evidence. If the petitioner is released on bail, he will hamper the trial.

Learned counsel for the complainant also contends that petitioner is an habitual offender as there is one more case of similar nature pending against him and prays for dismissal of the present petition.

Heard learned counsel for the parties and perused the paper book.

As per the case of the prosecution, Shamsher Singh and Vinod are brothers-in-law of the complainant-Balwan Singh, who was having 52 Kanal and 7 Marla of land. Both the above accused taking undue advantage of complainant's illiteracy, allured him under the pretext that he must sell his land and they shall get him purchased other land on lower price and the remaining amount of sale consideration of the sold land could be utilized by him in performing

the marriages of his two daughters. However, he could not smell foul play on the part of the accused and on their assurance, sold his entire land and accused got settled their account of *aadat* (commission agent) from him for Rs. 14 lakhs and on 03.07.2017 also, a sum of Rs. 2,50,000/- was received by them as loan and on 23.11.2017, again they were paid sum of Rs. 10 lakhs. On 29.11.2017 and 30.11.2017 Rs. 70 lakhs were transferred in their accounts by the complainant because they had assured to purchase the land on his behalf, but they did not do so; rather on the same day, issued two cheques for Rs. 35 lakhs each by mentioning the date of cheque as 29.11.2017. On 05.01.2018, a sum of Rs. 8,40,000/- was taken by the accused and thereafter a sum of Rs. 5 lakhs, Rs. 6 lakhs and Rs. 4.6 lakhs were also received, however, out of that only Rs. 10,20,000/- were returned in the account and Rs. 2 lakhs by cash. Finally, it was alleged that the accused had embezzled Rs. 93,90,000/- by playing fraud upon him and now they are planning to leave the country and Vinod has already left India and enjoying at Portugal. Another FIR No. 250 dated 12.07.2018, under Sections 406 and 420 of the Indian Penal Code has also been registered against them at Police Station Nissing.

Keeping in view the gravity of offence and severity of allegations as well as modus operandi for committing the crime, no case is made to grant the concession of regular bail to the petitioner at this stage when there is an apprehension that petitioner may hamper the trial and complainant is yet to be examined. Consequently the present petition is hereby dismissed at this stage.

However, it is made clear that the disposal of the present petition may not be construed as an expression of opinion on the merit of the case pending before learned trial Court.

[MAHABIR SINGH SINDHU]
JUDGE

May 16, 2019
rashmi

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no