

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.32635 of 2019
Decided on: 08.08.2019

Jagir Singh @ Papu and others

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : None.

ARVIND SINGH SANGWAN, J. (Oral)

Since the Bar is on strike, the Lawyers are abstaining from work and no one is appearing.

Prayer in this petition is for grant of regular bail to the petitioners under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.16 dated 08.02.2018, for offence punishable under Sections 436, 379, 427, 506, 148, 149 of the Indian Penal Code (in short 'IPC'), Section 201 IPC (added later) and Section 3 of the SC & ST Act, registered at Police Station Ajnala, District Amritsar Rural.

A perusal of the petition show that the petitioners are relying upon the order dated 06.05.2019 vide which the similarly situated co-accused Balwinder Singh was granted the concession of regular bail by passing the following order:-

“Learned counsel for the petitioner submits as per the allegations in the FIR, the petitioner had entered into an agreement to sell with the complainant, his brother and sons for Rs.21,18,000/- and the petitioner had given Rs.2,00,000/- to them on the basis of the agreement for which the possession of the land was transferred. It is

further stated in the FIR that the land in dispute is in fact in the ownership of the Punjab Government and the petitioner has acquired possession and the complainant intended to transfer the possessory rights in favour of the petitioner. It is further stated in the FIR that on 08.02.2018, the petitioner along with many other persons came to the Dera of the complainant and with the purpose of taking the possession, has caused damage to their property, however, no injury was caused to any person.

Learned counsel for the petitioner further submits that in fact there was an agreement to sell dated 29.11.2017 which was executed by the complainant's side in favour of the petitioner on receiving an amount of Rs.14,25,000/- and this is the only agreement to sell between the parties.

Learned counsel for the petitioner further submits that in this agreement, the details of the amount as well as the ownership of the Punjab Government is mentioned and the complainant, vide earlier agreement dated 18.09.2010, has obtained possessory rights from one Balkar Singh and has transferred the same to petitioner's side.

Learned counsel for the petitioner further submits that petitioner is in judicial custody since 19.03.2019 and he is not involved in any other case and it is a totally civil dispute based on an agreement to sell.

Learned State counsel, on instructions from ASI Sukhwinder Singh and on the basis of the custody certificate filed today in Court, could not dispute the factual position, however, submitted that during investigation, the police has added Section 201 IPC.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties and also in view of the fact that petitioner is no more required for any custodial investigation, the instant petition is allowed. The petitioner is ordered to be released on regular bail in aforesaid FIR including newly added Section 201 IPC, on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.”

A perusal of the FIR show that the allegation against the petitioners are identical in nature. It is also worth noticing here that

even the other co-accused namely Baj Singh @ Balraj Singh has been granted the concession of regular bail vide order dated 26.06.2019 passed in CRM-M No.26279 of 2019. The petitioner is in custody since 28.04.2019 and the investigation is complete.

Without commenting anything on merits of the case, considering the fact that the Bar is on strike and even the Investigating Officers are not permitted to attend the Court proceedings; similarly situated co-accused of the petitioners have also been granted the concession of regular bail and also in view of the fact that it will take some time in conclusion of the trial, this petition is allowed and the petitioners are directed to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

08.08.2019

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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No