

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-40068-2018 (O&M)

Date of Decision:- 18.1.2019

Amit Kumar and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. Sandeep Wadhawan, Advocate;
Mr. J.S. Bedi, Senior Advocate with
Mr. Lovekirat S. Chahal, Advocate;
Mr. Shalender Mohan, Advocate for the petitioners.

Ms. Simranjeet Kaur, AAG, Punjab.

Mr. Vivek Chauhan, Advocate for respondent No.2.

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GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioners seek grant of regular bail in respect of a case registered vide FIR No.179 dated 26.10.2016 at Police Station Sadar, District Ludhiana City under Sections 177, 193, 196, 420, 465, 467, 468, 471 and 120-B of Indian Penal Code, 1860.

The FIR was registered at the instance of complainant Harpreet Singh, wherein it has been alleged that his grandfather Jaswant Singh owns land in Village Dhandra and has effected several sale and purchase transactions with Dinesh Kumar, Amit Kumar and Vijay Kumar, who are Directors of 'M/s Damini Resorts and Builders Private Limited'. It is alleged that vide sale-deed No.11654 dated 9.10.2002, land measuring 5500 Sq.Yds. had been sold to 'M/s Damini Resorts and Builders Private Limited' but his

grandfather had never sold the land measuring 0 Bigha 3 Biswa and 7 Biswansi (approximately 502 Sq.Yds.) comprised in Khasra No.2681, 2649, 129/1. It is further alleged by the complainant that the accused, however, by forging an agreement dated 20.9.2002, for sale of the aforesaid land measuring 502 Sq.Yds., have filed a civil suit. It is further the case of the complainant that upon inquiry, it had been found that a letter of consent had been submitted with GLADA, which is dated 10.09.2002, whereas the stamp papers on which the same is scribed, was issued on 13.9.2002. It is further the case of prosecution that during the course of investigation, the signatures of Jaswant Singh, as existing on the agreement dated 20.9.2002, were got compared with standard signatures of Jaswant Singh and it was found that the signature were forged.

The learned counsel for the petitioners have submitted that infact the report of Forensic Sciences Laboratory (FSL), as obtained during the course of proceedings of the present investigation and also as obtained during the course of proceedings of the civil suit, cannot be relied upon as the signatures sought to be compared had been affixed at a different point of time and Jaswant Singh, being an aged man, did not affix consistent signatures. It has further been submitted that, in any case, since the genuineness of agreement in question is still being adjudicated by a Civil Court, the proceedings in a criminal trial was abuse of process of law. It has further been submitted that in any case the investigation is already complete and challan has been presented and, as such, the petitioners deserve to be released on bail.

The learned State counsel assisted by the learned counsel for the complainant, while opposing the petition, has submitted that in view of

the specific report of Forensic Science Laboratory, the complicity of the accused is very much evident and the accused, who are builders and have a notorious reputation, having been involved in other identical cases earlier also, do not deserve the concession of bail.

Having considered rival submissions addressed before this Court and without commenting anything on the merits of the case or as regards the reliability of report of FSL and while bearing in mind the fact that the petitioners have been behind bars since the last about 5 months and that the challan has already been presented, in my opinion, no useful purpose will be served by detaining the petitioners behind bars any further, more particularly when the trial is yet to commence and as many as 19 prosecution witnesses have been cited, which would certainly take fairly long time to conclude. The petition, as such, is accepted. The petitioners Amit Kumar and Dinesh Kumar are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

It is, however, made clear that in case the petitioners ever misuse the concession of bail or ever threaten the complainant in any manner, it shall be open to the prosecution to move an application for cancellation of bail.

This present petition stands accepted accordingly.

18.1.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No