

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

CRM-M-5047 of 2020

Date of decision: February 28, 2020

Raj Paul @ Ashok Kumar

....Petitioner

Versus

State of UT Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Jaswinder Singh, Advocate for the petitioner.
Mr. Gautam Dutt, APP for UT.

MAHABIR SINGH SINDHU, J

Present second petition has been filed under Section 439 Cr.P.C. seeking bail pending trial to the petitioner in case FIR No.132 dated 02.05.2018 under Sections 419, 420, 468, 471 read with Section 120-B IPC, registered at Police Station Sector 19, Chandigarh.

Brief facts of the case are that FIR was registered on the complaint of Ms.Dimpal Garg with the allegations that in 2nd week of October 2013 Ajay Nagpal who is known to her husband's friend namely, Vinod Kumar, approached for sale of House No.3099, Sector 37-D, Chandigarh and showed some documents. During sale process, Ajay Nagpal apprised her that said house was initially sold to Nirmal Kumar Gupta vide agreement to sell dated 15.12.2008, but the deal could not be matured and dispute in that regard is pending before the Civil Court, Chandigarh. He also told her that said Nirmal Gupta is ready to withdraw the civil suit on receipt of Rs.25 lacs as full and final settlement. On the assurance of Ajay Nagpal, complainant agreed to enter into agreement to sell on 21.10.2013, which was witnessed by Ajay Nagpal and Sukhwinder Singh. On

this, complainant handed over a bank draft of Rs.25 lacs in favour of Nirmal Kumar Gupta, which was further handed over to the petitioner. On receipt of the amount, a cancellation agreement of sale dated 21.10.2013 was entered into between Nirmal Kumar Gupta, Nirankar Singh and the present petitioner and the Civil suit was also dismissed as withdrawn. Thereafter, complainant entered into an agreement dated 21.10.2013 with the petitioner on the assurance of Ajay Nagpal and total earnest money of Rs.51 lacs i.e. Rs.1 lac in cash; Rs.25 lacs through demand draft and Rs.25 lacs through cheque dated 24.12.2013 was paid. After enquiring from the Estate Office, complainant came to know that petitioner is not the owner of the property; whereas the same is in the name of another Raj Paul son of Tirath Ram. Hence the present FIR was registered.

It is contended by learned counsel for the petitioner that although initially there were total four accused in this case, but during investigation, two were declared innocent by the police and one co-accused, namely, Sukhwinder Singh is no more. Further contends that petitioner is in custody since 04.05.2018; charges were framed on 03.08.2018; out of total 18 prosecution witnesses, only 6 have been examined; thus trial is likely to take a sufficient long time. Also the contention that there is no other criminal case pending against the petitioner.

Learned counsel for UT, on instructions from SI Krishan Kumar has duly acknowledged the above factual position.

Heard both sides and perused the paper book.

Concededly, the investigation is over; charges were framed on 03.08.2018; trial is going on smoothly and the petitioner is in custody since 04.05.2018. Since the trial is likely to take a long time to conclude, therefore, his further incarceration would not serve any purpose.

In view of the above, the petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of the CJM/ Duty Magistrate, concerned.

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

February 28,2020
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.