

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

CRM-M-4583 of 2020

Date of Decision:-03.03.2020

Rajender Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

JASGURPREET SINGH PURI J.(Oral)

Petitioner-Rajender Kumar has filed the present petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No. 127 dated 30.06.2019, under Sections 419, 420, 467, 468, 471 and 120-B IPC, registered at Police Station Barara, District Ambala.

Learned counsel for the petitioner has submitted that in the present case concerning the allegations against the petitioner, as per the FIR a General Power of Attorney (GPA) was purported to have been executed on 29.3.2010 in favour of petitioner by three persons, namely, Braham Parkash, Som Parkash and Prithvi Raj. Out of these three persons the

complainant is the son of said Braham Parkash. These three persons had died in the years 1987, 2011 and 2016. However, the GPA was executed on 29.3.2010 i.e. after the death of Braham Parkash and Som Parkash. These three persons were allegedly impersonated by three other persons, namely, Surinder Sharma, Rajiv Kumar and Shanti Lal Ahuja and they were also identified by two persons, namely, Daljit Singh and Satya Pal. Learned counsel for the petitioner has further submitted that when the GPA was executed in his favour in the year 2010, these three persons have been identified by two more persons and he had got this GPA in his favour out of good faith and he was not aware of the fact that these three persons were impersonated. He has further submitted that all the above five persons out of which three have impersonated and two who had identified, belong to Delhi whereas the petitioner belongs to Ambala and so therefore there was no occasion for him to have expressed any doubt with regard to execution of the GPA. Thereafter in pursuance of the aforesaid GPA, the land comprising of 14 Kanals and 07 Marlas was transferred by way of a sale deed dated 03.5.2010 in favour of his wife, namely, Seema Rani and thereafter the land was again transferred to her sister and subsequently again to some more purchasers. He has further submitted that after a period of nine years a civil suit was filed by the legal heirs of the aforesaid three persons, namely, Braham Parkash, Som Parkash and Prithvi Raj in which the petitioner was also arrayed as defendant in which the status quo order with regard to alienation has also been passed. He has further submitted that it is a case where all the aforesaid persons, out of which three persons namely, Surinder Sharma, Rajiv Kumar and Shanti Lal Ahuja, who were

allegedly identified by two persons, four accused out of five have been enlarged on bail by the learned Additional Sessions Judge. He has further submitted that the petitioner has one daughter of 17 years age and one son and he has to look after their welfare and the long incarceration of the petitioner would deprive him of his legitimate rights as well. He has further submitted that the investigation in the present case is already complete and the challan under Section 173 Cr.P.C. has already been filed by the police. The entire case is based upon documentary evidence, which is already with the police and the petitioner is in custody since 16.10.2019 and that the offence is triable by the Magistrate, therefore, he has prayed for grant of bail to the petitioner.

On the other hand, learned State counsel on instructions from ASI Ramesh Kumar has stated that although the custody period of the petitioner is not in dispute and it is also not disputed that the investigation in the present case is complete and the challan has already been presented, he has opposed the grant of bail on the ground that the matter involved is serious in nature and apart from it he has also stated that one of the co-accused is the wife of the petitioner who has not joined the investigation because she was living abroad even prior to filing of the FIR and therefore her joining in the investigation is also required in the present case.

I have heard learned counsel for the parties and perused the records.

So far as the custody period of the petitioner is concerned, the same is not disputed and the fact that the investigation of the case is already completed, which is based upon the documents and the same are already

with the authorities, is also not disputed. The argument which has been raised by learned counsel for the petitioner, that the GPA was executed in favour of the petitioner as the same was identified by two persons and he has got GPA executed in good faith and fact that two out of the alleged impersonated and the two persons who had identified them are already on bail, would require consideration for the purpose of granting of bail at this stage. Apart from this, the question as to whether any fraud has been committed or not is also subjudice before the Court of Civil Judge. However, the fact that the wife of the petitioner is living abroad and she has not joined the investigation, is the matter which also requires consideration. So far as the grant of bail to the petitioner is concerned, the totality of circumstances would suggest that the custody period of the petitioner is almost five months and the challan has already been presented before the Court and the matter is pending before the Civil Judge with regard to the legality of the GPA. The bonafide of the petitioner cannot be ascertained at this stage as it is a matter of evidence at trial and also based on outcome of civil suit. So far as non-joining of investigation by wife of petitioner is concerned, the incarceration of the petitioner cannot be prolonged only due to this reason. Therefore, it would be appropriate at this stage to admit the petitioner to bail. However, some strict conditions are required to be imposed with regard to the petitioner.

In view of the above, the present petition is allowed and the petitioner shall be admitted to bail subject to satisfaction of the trial Court and furnishing of adequate bail bonds and surety bonds with a further condition that the petitioner shall surrender his passport before the learned

trial court and shall not leave the country without prior permission of the trial Court.

March 03, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No