

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

Crl. Misc. No. 15440 of 2020 in/and
Crl. Misc. M-5522 of 2020
Date of decision: 21.07.2020

102

Amit Goyal and another

....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Karan Singh, Advocate,
for the applicant-petitioners.

Mr. Amit Aggarwal, DAG, Haryana.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

Crl. Misc. No. 15540 of 2020

The present application has been filed for pre-ponement of the
main case from 28.08.2020.

Keeping in view the averments made in the application, the
application is allowed.

Hearing of the main case is preponed from 28.08.2020 to today.

Crl. Misc. M-5522 of 2020

The petitioners, who are brothers, seek regular bail in a petition
filed under Section 439 Cr.P.C. in FIR No. 359 dated 02.05.2018 under
Sections 406, 420, 201, 120-B IPC registered at P.S. Sector 7, Faridabad.

It is the grouse of the petitioners that they are in custody since
10.07.2018 and the trial is likely to take considerable time and the

investigation having been completed, no useful purpose would be served as such to keep them in further detention.

Counsel for the petitioners has pointed out that as per the terms of the FIR, the cheating is allegedly on the ground that the petitioners had approached the complainant Suman Chaudhary that construction of Piyush Mahindera Mall at NIT No. 2, Faridabad was to commence in commercial space and the ownership of the same was with Piyush Group. They had asked for investment of Rs.72,00,000/- for 2500 square feet at the first floor, which was to be returned within 3 years with handsome profit. Resultantly, in June, 2013 to November, 2013, the same had been paid by the complainant and her husband by way of Rs.25,00,000/- through cheques and Rs.47,00,000/- cash. As per the FIR, there was to be an assured 1% return monthly upto three years and after completion of the said period, principal amount had not been returned and, therefore, the FIR had been lodged.

Counsel for the petitioners submits that as per the agreement executed on 16.12.2013 (Annexure P-2) between Piyush Shelters and the complainant, a lease had been taken for 584.430 square feet in the property coming up in the name of M/s. Piyush Global situated at Plot No. 5 at YMCA Chowk, Faridabad and the consideration amount of Rs.35,84,339/- was paid for the same. He submits that there was a completion certificate also issued on 25.01.2016 but the complainant etc. had not taken possession as per the terms of the agreement (Annexure P-2) and had opted to file the FIR on account of recession as such,

Counsel for the State has argued by placing reliance upon the order of the Additional Session Judge, Faridabad, that there were many

other investors and 7 more investors were included in the present complaint.

The total amount allegedly embezzled by the applicants is Rs.3,02,80,661/-.

It is further submitted that there is a report of the Income Tax Department that the petitioners had collected large amount of Rs.13,97,88,15,848/- and, therefore, several post dated cheques had been issued but dishonoured. Resultantly, it is pointed out that there are large number of criminal cases pending against the applicants which are as many as 28 in number and, therefore, the petitioners are not liable to be released on bail.

It is, however, an admitted position that out of the 35 witnesses in the present FIR, only 7 have been examined till date. The petitioners, as noticed, are in custody since the last 2 years and it is a case triable by the Magistrate. Prima facie, the argument which has been raised by counsel for the petitioners that it was a commercial agreement which has gone wrong on account of the recession in the real estate market as such cannot be lost sight of. Merely because there are other cases pending against the petitioners for similar agreement would not disentitle the petitioners for benefit of regular bail as the allegations in each case have to be assessed separately. The cloak of criminal proceedings over the civil disputes cannot totally be ruled out.

Keeping in view the above and the fact that no useful purpose would be served by keeping the petitioners in custody in the facts and circumstances and it is not the case of the prosecution as such that they are in a position to delay the trial on account of the release, the petition is allowed. The petitioners be released on regular bail to the satisfaction of

SHIVANI GUPTA
2020.07.22 11:49
I attest to the accuracy and
integrity of this document

(G.S. SANDHAWALIA)
JUDGE

Yes/No