

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9719-2020 (O&M)

Date of Decision: 04.12.2020

Siakat Ali

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Digvijay Nagpal, Advocate,
for the petitioner.

Mr. Mehardeep Singh Dulat, Addl. Advocate General, Punjab,
for the respondent.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail in FIR No.72 dated 24.09.2013, under Sections 419, 420, 467, 468, 471 and 120-B of the Indian Penal Code, registered at Police Station Kabarwala Tehsil Malout, District Shri Mukatsar Sahib.

The FIR was lodged on the basis of statement of Tehal, son of Mangal Singh, resident of Bhagwan Pur Khadir, Tehsil Mawana, District Meerut (U.P.), Manager of Shiv Sadan Farm Bhagwan Pura Khadar, by stating that he is working as a Manager at aforesaid Shiv Sadan. Baba Virsa Singh was the Chief disciple of the Shiv Sadan which has 2500 acres land adjoining the village, which is a cultivatable land and which is in the name of different disciples living in Shiv Sadan. Baba Virsa Singh expired in the year 2007 and after that it was his responsibility to take care of the property

of Sadan. In the year 2012, he came to know that the land of Shiv Sadan, which is in the village Sikander Pur, some persons in conspiracy with each other prepared forged power of attorney by presenting someone else on behalf of the real disciple and transferred the land of Sadan on their names and thereafter, when he started inquiring then it came to his knowledge that Rishi Pal Singh son of Mangu Singh, and his friend Siakat son of Rehasdin (the petitioner), resident of Meerut and some other persons of Malout and near surrounding villages with the conspiracy with each other and in order to misappropriate the land of Sadan forged a ration card, a fake voter card of sewadar of the Buta Singh, Jaswant Singh, Mavinder Singh resident of Bhagwan Pura Khader using forged and false address and some other fake persons had produced forged/bogus power of attorney, which was prepared vide Deed No.16 dated 11.05.2010 in the name of Rishi Pal and the same was registered in the office of Sub-Registrar, Malout and the sale deed of which was registered with the Sub-Registrar, Malout, on the basis of which, the above-stated persons have registered the 10 Killas of land of Shiv Sadan in their names and cheated the Sadan. The aforesaid Rishpal Singh and Siakat (the petitioner) in connivance with the other accomplices and with an intention to misappropriate the land belonging to Sadan, forged a ration card and a voter card and prepared a power of attorney from Malout by producing other persons and misappropriated 10 Killas of land of the Sadan in the name of Siykat (the petitioner) and Tek Chand etc.

The FIR No.72 was registered on 24.09.2013 and the petitioner was granted bail under Section 167(2) of the Code of Criminal Procedure, on 09.01.2014. Challan against the petitioner was presented before the learned trial Court on 10.08.2017 and thereafter, time and again the learned counsel

for the petitioner was directed to produce him before the Court but he did not present before the learned trial Court. On 27.02.2018, the petitioner was ordered to be summoned to non-bailable warrants of arrest but even then his presence could not be procured and therefore, he was declared as proclaimed offender on 18.01.2019. Thereafter, he remained absconded for a long period of time and was ultimately arrested on 21.09.2019.

The learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case and that the mere fact that he did not present himself before the learned trial Court for some time would not disentitle him from being granted bail. He has further submitted that it was only because of his ill health that he could not appear before the learned trial Court. He has further submitted that even after he was arrested on 21.09.2019, he is in custody for more than 01 year and therefore, he may be considered for grant of regular bail.

On the other hand, the learned State counsel has submitted that the petitioner has jumped the bail and he remained absent from the Court proceedings for a long period of time and ultimately he was arrested on 21.09.2019. So far as the ill health of the petitioner is concerned, the petitioner was not able to substantiate his assertion by way of any document. It has been noted by the learned Additional Sessions Judge, who had dismissed the bail application of the petitioner, that the medical record produced by the petitioner pertains to the year 2012-13 whereas, he was declared as proclaimed offender much later than and that he has misused the concession of bail granted to him. The learned counsel for the State has also referred to the status report, which was filed by the Deputy Superintendent of Police, Sub-Division Malout, District Shri Mukhtersahib, in which it has

been stated that the petitioner was arrested on 01.10.2013 and was granted bail on 09.01.2014 and the challan was presented in the Court on 10.08.2017 against four accused including the petitioner as the remaining three accused were absconding. When the petitioner was facing trial before the learned trial Court, he did not appear before the learned trial Court on 27.02.2018 and in spite of best efforts by the police, he could not be arrested and he was declared as proclaimed offender by the learned trial Court, vide order dated 18.01.2019. Thereafter, the police arrested the petitioner on 21.09.2019 and since then, he is in judicial custody and is facing trial of the case before the learned trial Court. It is further stated in the affidavit that the remaining three accused, who had been absconding, were declared as proclaimed offenders by the learned trial Court and that there are sufficient evidences against the petitioner and other co-accused to prove their guilt. Out of 19 witnesses, no witness has been examined by the prosecution so far and thus, he has prayed for dismissal of the present petition. The learned State counsel has further submitted that since the petitioner had earlier jumped the bail, he is likely to abscond.

I have heard learned counsel for the parties.

The petitioner was granted bail by the learned trial Court on 09.01.2014. Thereafter, on 27.02.2018, he did not present himself before the learned trial Court and rather absconded from the judicial proceedings and was ultimately declared as proclaimed offender on 18.01.2019 and thereafter, arrested on 21.09.2019. The submission made by the learned counsel for the petitioner that the petitioner did not present before the learned trial Court although for a long period of time, which was about 1½ years was because of his ill health, does not carry any weight in view of the

fact that there is nothing on record to show and substantiate the same. Even after summoning, the petitioner did not surrender himself but he was re-arrested by the police on 21.09.2019 and therefore, it is a case where the petitioner has jumped the bail, which was granted by the learned trial Court earlier. The next submission made by the learned counsel for the petitioner is that even after he was re-arrested still he is in custody for more than 01 year thereafter, would not carry any weight, in view of the fact that once no explanation has come from the petitioner with regard to his previous misconduct, then the submissions made by the learned State counsel that the petitioner may again abscond needs to be accepted.

In view of the above, I do not find any merit in the present case and the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

04.12.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No