IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Criminal Misc. No. M-12383 of 2020(O&M)
Date of Decision: 15.05.2020

Subhash Chand Arora ... Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ANIL KSHETARPAL, J.

Present petition has been filed by the petitioner, namely Subhash Chand Arora, under Section 439 Cr.P.C. for grant of regular bail in FIR No. 442, dated 31.12.2019, registered under Sections 419/420/467/468/471/120-B IPC, at Police Station Sushant Lok, District Gurugram.

The allegations in the FIR have been extracted by the learned Additional Sessions Judge, Gurugram, in para No. 3 of the order, which are extracted as under:-

> *"3.Brief facts of the prosecution case are that complainant Nikash Dumbre gave a complaint for taking action against the persons who have sold out his property no. 2725 Block C, Sushant Lok-I measuring 51.25 sq. meters. It is stated that he has purchased this property in the year 1999 from M/s Ansals on payment of Rs. 12,259/- vide allotment letter 23.07.1999 and sale deed dated 10.05.2000.Complainant lives in Delhi. In November 2019, he contacted one broker namely Kheterpal for selling his property. Accordingly, broker visited the place and came to know that it has been sold*

out through e-auction dated 04.11.2019 by accused no. 2 PNB. The broker informed him about the same. Complainant got shocked and met the branch manager of PNB, Gaziabad. The branch manager revealed that accused no. 1 Mr. Ajay Kumar Sharma had applied for a loan and he offered the complainant's property as collateral to accused no. 2 namely Arun Kumar Goyal the then Chief Manager, PNB. It is very strange that he is lawful owner of the property despite the same it was mortgaged by accused no. 1 with accused no. 2 by portraying that the same property belonged to accused no. 1. It is further alleged that neither complainant knows accused no. 1 nor has entered into any kind of transaction with him. It is further stated that accused no. 3 Ajay Viz Advocate is also involved in this matter as he had submitted a certificate in the office of accused no. 2 that the property is free from encumbrances and belongs to accused no. 1. It is revealed by the bank officials that accused no. 1 did not make the payment of the loan therefore, the account was declared as non performing asset and eauction under SARFEASI 2002 was conducted and property was put on sale by the accused no. 2.

It is further stated that complainant has not executed any agreement in favour of accused no. 1 as mentioned in the sale deed dated 26.05.2016. The signatures of the complainant have been forged and the photograph affixed on the sale deed is not of complainant. As accused persons have conspired together in order to cheat and defraud the complainant therefore action be taken against them."

Hearing of the case was held through video conferencing on account of lock-down.

Learned counsel for the petitioner contends that the petitioner is a practicing advocate for the last 40 years and at present aged about 72 years. He further submitted that the petitioner had attested the sale deed as a witness on the basis of Aadhar Card produced before him. He further submits that the petitioner is not one of the beneficiary of the alleged forged sale deed. He further submits that other co-accused have not been arrested. He further submits that the petitioner is in judicial custody and the case is triable by Magistrate.

On the other hand, learned State counsel has submitted that 3 more FIRs have been registered against the petitioner. He further submits that in FIR No.443 dated 31.12.2019, the petitioner had witnessed a sale deed which has been executed on behalf of deceased. He further submits that the petitioner is taking undue advantage of his professional qualification.

No doubt, the petitioner, who is a practicing advocate, is expected to be more careful and more responsible. He cannot sign the sale deed as a witness simply on the basis of Aadhar Card. However, at this stage, it is to be considered that whether further incarceration of the petitioner shall be justified, particularly when the petitioner is in judicial custody and as on date no material has been brought to the notice of this Court to prove that the petitioner is one of the beneficiary under the alleged forged sale deed or not?

Without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody since 10.04.2020 and the trial of the case is likely to take long time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

Accordingly the petition is allowed with the aforesaid directions.

(ANIL KSHETARPL)
JUDGE

May 15, 2020
"nt"

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No