

208

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

1. CRM-M No.13165 of 2020
Date of Decision: 09.06.2020

SUBHASH CHAND ARORAPetitioner
Vs
STATE OF HARYANARespondent

2. CRM-M No.13632 of 2020

LUCKY UPPALPetitioner
Vs
STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kunal Dawar, Advocate
for the petitioner in CRM-M No.13165 of 2020.

Mr. Manish Soni, Advocate
for the petitioner in CRM-M No.13632 of 2020.

Mr. Anant Kataria, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

Both the case have been taken up for hearing through
video conferencing.

Petitioners-Subhash Chand Arora and Lucky Uppal
seek grant of regular bail under Section 439 Cr.P.C in case
bearing FIR No.12 dated 23.01.2020, registered under Sections
419, 420, 467, 468, 471, 120-B IPC at Police Station Sushant
Lok, District Gurugram, Haryana.

The prosecution story started with the allegations that one Anoop Singh Dhankar was owner of plot no.2165, Block-C, Sushant Lok-I, Gurugram on the basis of sale deed dated 07.04.1993. He had transferred the aforesaid plot in favour of his wife namely Anurita Dhankar by transfer deed dated 19.08.2014. After the said transfer, she was the sole owner of the plot in question. Complainant received a call on 19.01.2020 that one Vibha had put the said plot on sale in the market on the basis of forged sale deed dated 07.01.2020. In the aforesaid forged sale deed, some persons impersonated the complainant Anoop Singh and thereafter sold the plot to Vibha. The sale deed was witnessed by Sanjay Kumar Malik and the petitioner as witnesses.

The allegations against the petitioner Subhash Chand Arora are that he stood as witness in a forged sale deed which was done by way of impersonating the complainant in favour of Vibha. Petitioner-Lucky Uppal is not named in the FIR, but on the basis of disclosure statement of co-accused Rajinder @ Raju his name came to fore and rubber stamps were recovered from him. Petitioner-Lucky Uppal is statedly running a shop under the name and style of Lucky Computerized Rubber Stamps in Delhi.

Learned counsel for the petitioner(s) submitted that a

person identifying a person before the Notary Public is not supposed to be privy to the transaction. No offence under Section 420, 468, 471 IPC can be made out against the petitioner-Subhash Chand Arora as he had no antecedent knowledge of the transaction, nor he is privy to the agreement between the parties.

In **Hira Lal Jain vs. Delhi Administration, (1973) 75 PLR 121**, the Court has highlighted the role of an Advocate in District Court while attesting a document in the capacity of a witness.

Whether Subhash Chand Arora was having previous knowledge of the fact that the accused were not the rightful claimants, would be totally dependent upon the nature of evidence to be collected and produced before the Court by way of prosecution evidence. Prior knowledge of the petitioner would be debatable in view of facts and circumstances of the case. The proposition discussed in **Balbir Singh vs. State of Punjab (P&H), 1994(3) R.C.R. (Criminal) 486**; **Banarasi Dass vs. State of Punjab (P&H), 1987(2) R.C.R. (Criminal) 584** and **Vijay Kumar Sharma vs. U.T. Chandigarh, 1997(3) R.C.R. (Criminal) 402** would be relevant in the present context of prior knowledge available with the accused petitioner in such type of transactions.

Petitioner-Lucky Uppal has not been named in the FIR. He is not signatory to the instrument in any manner. Petitioner is neither a beneficiary nor a participant in terms of attestation. His name has appeared only in the disclosure statement of co-accused Rajinder @ Raju, who in turn was arrested on 18.02.2020 on the basis of disclosure statement of Vibha.

The antecedent connectivity of Subhash Chand Arora on the basis of earlier FIR Nos.441 dated 31.12.2019, 442 dated 31.12.2019 and 443 of 31.12.2019 would remain debatable as in FIR Nos.442 and 443, petitioner Subhash Chand Arora has already been granted bail and prayer for bail in FIR No.441 is pending in the High Court.

Petitioner Subhash Chand Arora is in custody since 02.03.2020 and petitioner-Lucky Uppal is in custody since 19.02.2020.

Learned State counsel on instructions from the Investigating Officer submitted that challan has already been presented. Offence is triable by the Magistrate. Charges have not been framed so far. Trial of the case may take some time in its culmination.

At this stage, without adverting to the merits of the cases, I am of the view that both the petitioners, can be

enlarged on bail.

In view of above, both the petitions are allowed. Petitioners are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

June 09, 2020	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No