

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

257

**CRM-M-45804-2019
Date of decision : 09.01.2020**

Laxman Singh Negi

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Arjun Singh Yadav, AAG Haryana
for respondent No.1-State.

Mr. Akashdeep Singh, Advocate
for respondent No.2/complainant.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of regular bail to him in case FIR No.523 dated 14.11.2018 registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sector-14, Gurugram.

Briefly stated the facts relevant for disposal of the bail application are that complainant-Jetha Nand Saluja submitted written complaint to the Commissioner of Police, Gurugram against the petitioner and others alleging that the complainant had purchased Plot No.69/4, Sector-14, Gurugram from Smt. Kaushal Aggarwal and Smt. Sunita Aggarwal vide sale deed No.17453 dated 25.10.2013. The petitioner and other persons named in the complaint in conspiracy forged documents to grab his land and create the dispute regarding the

same for harassing and blackmailing him. Mr. Suresh Kumar Ahuja, Managing Director of M/s Read Gold Builder Private Limited, 36-A Jakranda Marg, D.L.F., Phase-II, Gurugram by forging a collaboration agreement (dated 05.01.2013) with Smt. Kaushal Aggarwal and Smt. Sunita Aggarwal executed documents purporting to give allotment rights for allotment of flats to various persons including wife of the petitioner and received earnest money from them as mentioned in the complaint. Mr. Suresh Kumar Ahuja executed agreement to sell dated 26.10.2013 in favour of Ms. Pratibha Negi, wife of the petitioner, in respect of flat No.202, Plot No.69/4, Sector-14, Gurugram for Rs.50,00,000/- against receipt of Rs.40,00,000/-. On complaint of Mr. Nitin Gupta and Ms. Neha Gupta, FIR No.372 dated 01.05.2014 was registered under Sections 420, 467, 468, 471 and 120-B of the IPC at Police Station Civil Lines, Gurugram against Suresh Kumar Ahuja, complainant-Jetha Nand Saluja and others in which Suresh Kumar Ahuja has been declared as proclaimed offender while complainant-Jetha Nand Saluja was found innocent. Mr. Vivek Gupta dishonestly received amount of Rs.1 crore and 10 lacs from complainant-Jetha Nand Saluja and his relatives and got allotment rights for allotment of flats transferred in his favour from five allottees including wife of the petitioner. Vivek Gupta got agreement dated 16.06.2015 executed by the petitioner and his wife Pratibha Negi regarding limited allotment rights for allotment of the above-said flat in his favour. The petitioner and other persons arrayed in the complaint having no right title or interest in the above-said land could not enter into any agreement regarding the same claiming delivery of possession and they thereby

committed offences punishable under Sections 384, 387, 420, 467, 468, 471, 506 and 120-B of the IPC. The above referred FIR was registered on the basis of the written complaint. The petitioner who is in custody since 03.08.2019 has filed the present petition for bail.

The petition has been opposed by learned State Counsel in terms of reply dated 23.11.2019 and additional reply dated 07.01.2020 filed by respondent No.1-State.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the relevant record.

Learned Counsel for the petitioner has argued that no offence is made out against the petitioner and his wife who had merely transferred limited rights to allotment of flat and no loss was caused to the complainant-Jetha Nand Saluja. Complainant-Jetha Nand Saluja had already sold the land in question to Mr. Pran Mehta vide sale deed No.28014 dated 08.02.2016 and had no right, title and interest of the land at the time of lodging of the FIR. The present FIR was got registered as a counter-blast to FIR No.372 dated 01.05.2014 registered under Sections 420, 406, 467, 468, 471 and 120-B of the IPC at Police Station Civil Lines, Gurugram against complainant-Jetha Nand Saluja and others. Complainant-Jetha Nand Saluja through Vivek Gupta purchased the limited rights for allotment of flats in order to seek his exoneration in the above-said FIR. Complainant-Jetha Nand Saluja filed civil suits which were also withdrawn by him after his exoneration in the above-said FIR. The matter primarily involves civil dispute which has been given the colour of criminal offences. The petitioner is

in custody since 03.08.2019 and is also suffering from serious ailments. Trial is likely to take long time. No useful purpose will be served by his further detention in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel and learned Counsel for the complainant have argued that the petitioner being employee of Mr. Suresh Kumar Ahuja, Managing Director of M/s Read Gold Builder Private Limited, 36-A Jakranda Marg, D.L.F., Phase-II, Gurugram in conspiracy with him forged documents and created agreement to sell to grab the land of the complainant and harassed and blackmailed him. Collaboration agreement dated 05.01.2013 claimed by Mr. Suresh Kumar Ahuja to have been executed in his favour by Smt. Kaushal Aggarwal and Smt. Sunita Aggarwal was also a forged document. Complainant-Jetha Nand Saluja purchased the land in question from Smt. Kaushal Aggarwal and Smt. Sunita Aggarwal on 25.10.2013. The petitioner has claimed that Suresh Kumar Ahuja executed agreement to sell dated 24.10.2013 but the signatures on the agreement bear the date of 26.10.2013 and the same was ante-dated. The petitioner had given NOC dated 13.01.2014 (Annexure R-2/6) and NOC dated 10.04.2015 (Annexure R-2/5) but executed agreement dated 16.06.2015 in favour of Vivek Gupta. The petitioner has committed serious offences of cheating, fraud, forgery etc. to grab the property of the complainant and does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

In the present case admittedly Smt. Kaushal Aggarwal and Smt. Sunita Aggarwal were owner of the land in question. Suresh

Kumar Ahuja claimed that Smt. Kaushal Aggarwal and Smt. Sunita Aggarwal had executed collaboration agreement dated 05.01.2013 for collaboration with him which is claimed by complainant-Jetha Nand Saluja to be forged document. Suresh Kumar Ahuja executed agreement dated 24.10.2013/26.10.2013 for allotment of flat in favour of the wife of the petitioner and similar agreements in favour of various other persons. Complainant-Jetha Nand Saluja purchased the land in question from Smt. Kaushal Aggarwal and Smt. Sunita Aggarwal vide sale deed dated 25.10.2013. Thereafter, complainant-Jetha Nand Saluja executed agreement to sell dated 26.10.2013 in favour of Suresh Kumar Ahuja. FIR No.372 dated 01.05.2014 was registered under Sections 420, 406, 467, 468, 471 and 120-B of the IPC at Police Station Civil Lines, Gurugram against complainant-Jetha Nand Saluja and Suresh Kumar Ahuja and others. During investigation of the above-said FIR, complainant-Jetha Nand Saluja filed civil suit while Vivek Gupta purchased limited flat allotments rights from the petitioner and his wife and other four prospective allottees. Complainant-Jetha Nand Saluja filed present FIR against the petitioner-Laxman Singh Negi, Suresh Kumar Ahuja and other prospective allottees named in the complaint. However, complainant-Jetha Nand Saluja had already sold the land in question to Pran Nath Mehta vide sale deed No.28014 dated 08.02.2016. The matter primarily involves adjudication of the rights of the parties in the context of the documents of title and the agreements executed by the parties in respect thereof. The petitioner was involved in five other cases in which he was exonerated but re-investigation is pending in one case. The question of guilt or innocence of the petitioner

is to be decided on the basis of evidence to be produced during trial. However, trial is likely to take long time in view of number of witnesses to be examined and documents to be produced. The purpose of detention during trial is to secure presence and not punishment and bail is the rule and jail an exception. Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the plea/defence taken by him, his medical treatment record and the fact that trial is likely to take long time but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Gurugram.

09.01.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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