

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.5672 of 2021 (O&M)
Date of Decision: December 06, 2021

Chand Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Ankur Mittal, Advocate,
for the petitioner.

Mr.Ramandeep Sandhu, Sr.DAG, Punjab.

Mr.T.T.P.Singh, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.172 dated 24.10.2020, under Sections 419, 420, 465, 467, 468, 471 and 120-B IPC, 1860, registered at Police Station, Chamkaur Sahib, District Rupnagar, who is in custody since his arrest on 10.11.2020.

The contents of the FIR, as noticed by the Additional Sessions Judge, Rupnagar in his order dated 18.12.2020 while dismissing the bail application of the petitioner, are as under:-

“FIR in this case has been registered as per the written complaint moved by complainant Kamla Sharma and Sushila Sharma against Gurcharan Singh son of Atma Singh , Harish Kumar son of Kapoor Chand, Sukhminder Singh son of Hazara Singh, Chand Kumar son of Sham Lal, Guddi daughter of Chand Kumar , Shiv Kumar son of Sham Lal , Raghu Raj son

of Sham Lal and Mandeep Moudgil Advocate and Paramjit Singh Kheri Advocate for having committing the offence of criminal conspiracy, impersonation, cheating, forgery and using the forged documents in the court. As per the facts, both are the real sisters, aged 78 years and 75 years respectively and are the permanent residents of Delhi. They have three brothers namely Vijay Sharma, R.C.Sharma, Satpal Sharma and three sisters namely Sushila Devi Sharma complainant, Kamla Devi Sharma and Smt.Shakuntla. All the three brothers have expired. Their younger brother Satyapal Sharma expired on 14.11.2016 . The complainants are the owners of the ancestral agricultural land approximately 3.50 acres situated at village Jindpura Tehsil and District Chamkaur Sahib. Their sister-in-law, received summons from the court of Mrs.Pooja Andhotra, Additional Civil Judge (Sr.Division) Ropar, in case Chand Kumar Vs Sushila Sharma and others registered as CS No.42/2020 and from the court of Mrs.Rabina Joshan Civil Judge (Junior Division) Ropar in case titled Chand Kumar Vs Sushila Sharma registered as CS No. 400/2020. As the suits are identical and the same were transferred to the court of Mrs.Pooja Andhotra, Additional Civil Judge (Sr. Division) Ropar. Accused No.4 Chand Kumar is their maternal cousin brother and he has filed these two above said civil suits against them. They came to know that Chand Kumar accused filed a suit against their late brother Satyapal Sharma in the year 2016 registered as CS No.570/2016. Their brother Satyapal died in the year 14.11.2016 after filing the written statement. Chand Kumar accused deliberately, knowingly and will fully withheld the fact of the death of his cousin brother from the court and cheated the court and obtained ex parte decree on 27.2.2018 after one year and three months of the death of Satyapal Sharma by committed cheating with the court. Complaint has been moved to the police in this regard. Now Chand Kumar has filed another civil suit in the year 2017 against their deceased brother Satyapal Sharma despite having

clear knowledge regarding his death which was titled as Chand Kumar Vs Sucha Singh and others impleading him as defendant No.2. Accused No.1 filed civil suit against their brother Satyapal Sharma after his death. Accused Nos.4 , 6 & 7 have illegally sold their 3.5 acres of agricultural land after entering into agreement to sell with one Sumit Sood after receiving Rs.45 lacs on their behalf and handed over the possession to him. Accused Nos.4,6 & 7 are the beneficiary of money which they have received by selling their share of agricultural land to Sumit Sood. Now Chand Kumar accused into criminal conspiracy with accused No.1 , 8 & 9 filed two civil suits Gurcharan Singh Vs Kamla Devi CS No.492/2020 on 27.7.2020 and another suit Gurcharan Singh vs Sushila Sharma as CS No.510/2020 on 4.8.202 in the court, both the suits are in the same nature. They got the interim stay form the court of Ms.Ramandeep Neetu, Civil Judge (Junior Division), Ropar on 4.8.2020. Thereafter, they withdraw the earlier civil suit No.492/2020 from the court of Ms.Sarabjit Kaur, civil judge (Junior Division), Ropar on 13.8.2020. Both the suits have been filed by filing wrong affidavits in order to cheat not only the court but also in order to succeed in grabbing the land of complainants who are old ladies. Both the above said suits have been filed at the behest of Chand Kumar accused through one person namely Gurcharan Singh. The above said suits have been filed on the basis of one alleged agreement to sell which has allegedly been executed between them and accused no.1 and the said agreement to sell is alleged to have been witnessed by accused No.2 & 3. The alleged agreement to sell has been prepared by forging their signatures. Both the civil suits no.492/2020 and civil suit No.510/2020 have been taken from the same computer. It is further submitted that throughout their life, they never resided at the address which has been given in the alleged agreement to sell as well as in the civil suit. It is pertinent to mention here in the forged agreement to sell that the accused No.1 in connivance with accused No.4,8 &

9 have written that they have received a sum of Rs.7 lacs in cash out of agreed Rs.12.50 lacs and the remaining amount will be paid to them on 30.3.2021 at the time of sale deed. They are not conversant with Gurmukhi language and the alleged agreement shown to be executed on 9.7.2020 and they are old aged ladies and it is not expected that during the time of Covid-19, they travel all the way from Delhi to this remote village for execution of the alleged agreement to sell. Their signatures as well as their impersonation has been done by one of the daughter of accused No.4 who came to visit them after the death of their brother Satyapal Sharma at their residence at Delhi. Thereafter, the investigation was conducted and on the basis of which, the present case has been registered.”

Learned counsel for the petitioner has argued that the complainants, namely, Sushila Sharma and Kamla Sharma are petitioner's cousins, who are having dispute regarding inheritance of agricultural land left behind by their grand-father, namely, Asa Ram. He submits that as per allegations, petitioner had filed a civil suit for injunction in respect of the land in question against complainants' brother, namely, Satyapal Sharma, who had already died and the share belonging to the complainants was illegally sold to Sumit Sood. According to him, petitioner had entered into an agreement to sell dated 21.08.2017 (Annexure P-2) with three sisters, i.e., the complainants and Shakuntla Devi and pursuant to the same, a sale deed dated 24.06.2019 (Annexure P-3) was executed in favour of sister of the complainants. He submits that the said instrument was never disputed by the sister of the complainants and as far as the allegations regarding filing of the civil suit are concerned, the same are incorrect and the said suit for injunction was contested by the defendant by way of his written statement dated 07.11.2016. He submits that the said suit was finally decided on

27.02.2018 and his counsel also never disclosed the court that the defendant had died on 14.11.2016. He submits that a separate suit for specific performance of contract relating to agreement to sell dated 21.08.2017 filed by petitioner against the complainants is also pending adjudication and the dispute between the parties is of civil nature. He prays for bail as investigation is complete.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Shinder Pal, as well as by the learned counsel for the complainant, who have argued that the petitioner has illegally sold the share of complainants to one Sumit Sood and in that regard, a separate FIR No.169 dated 17.10.2020, under Sections 406, 420, 506 IPC, Police Station Chamkaur Sahib was also registered against him. It is also pointed out that subsequent to this FIR, two more cases were registered, i.e., FIR No.6 dated 13.01.2021, under Sections 420, 467, 468, 471 IPC, Police Station, Chamkaur Sahib and FIR No.19 dated 05.02.2021, under Sections 420, 467, 468, 471 IPC, Police Station, Chamkaur Sahib. Learned State counsel, on instructions, does not dispute this fact that though the charges have been framed, but no prosecution witness has been examined so far.

After hearing the learned counsel for the parties and considering the above background, it is apparent that the case of the prosecution is based on documentary material and the rights of the parties would be finally decided before the civil court. Since the investigation of the case is complete and the trial is yet to commence, therefore, the further detention of the petitioner behind the bars may not be necessary for any useful purpose. The petitioner is presently confined in judicial custody after his arrest on 10.11.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Rupnagar.

December 06, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No