

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

CRM-M-7966-2021 (O&M)

Date of decision: 05.08.2021

Babrik @ Babreek

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. J.S. Ghuman, DAG, Punjab.

Mr. C.S. Jattana, Advocate for the complainant.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

CRM-22918-2021

Allowed as prayed for, subject to all just exceptions.

Annexure A-1 to Annexure A-3 be taken on record.

Main Case

Custody certificate filed by State counsel be taken on record.

This petition for regular bail has been filed by petitioner Babrik @ Babreek, an accused in FIR No.355 dated 21.12.2017, for offences under Sections 420, 120-B, 465, 467, 468 and 471 IPC, registered with Police Station Division No.7, Ludhiana.

Briefly stated the facts of the case as per prosecution story are that, criminal machinery in this case was set into motion by

complainant Gurbaksh Singh son of Sohan Singh, who in the written complaint submitted by him stated that he is owner of Flat No.1192, MIG Flats, Sector-32, Samrala Road, Ludhiana and he let out that flat on rent to petitioner-accused Babrik @ Babreek on 01.03.2007 at monthly rent of Rs.3500/- and an agreement in that regard was executed between the parties; however, the accused started committing default in payment of rent; when the complainant asked the accused to vacate the flat, he refused to do so, rather, threatened the complainant; the complainant filed an ejectment petition against the accused, wherein the accused appeared and set up an agreement said to have been entered into between the parties regarding sale of the flat same to the accused; according to the complainant, the agreement is forged and fabricated document, not bearing his signatures; that the accused had taken the possession of his flat, creating a false agreement; in that way, committed an offence of cheating with the complainant and creating false documents, besides taking illegal possession of flat from the complainant; on the basis of such complaint, formal FIR was recorded; the investigation in the case started; the accused was arrested in this case.

Petitioner-accused had filed a petition for regular bail before the Court of Sessions at Ludhiana. His such application which was assigned to Addl. Sessions Judge, Ludhiana, was however dismissed, vide order dated 12.02.2021. As such, the petitioner has approached this Court craving for grant of similar relief, which prayer is being opposed by the State counsel as well as counsel for the complainant.

I have heard learned counsel for the parties besides going

through the record.

The dispute between the parties appears to be of civil type and admittedly, the litigation in that regard had taken place between the parties, which is evident from copy of the judgment passed by Rent Controller, Ludhiana in case 'Gurbaksh Singh Vs. Babrik', decided on 03.11.2017, copy of which is available on record as Annexure P-4. Although, according to the complainant, he had not entered into an agreement to sell with the accused and the accused has prepared a forged and fabricated agreement but then only during the trial, it can be determined as to whether the agreement to sell set up by the accused is genuine or forged and fabricated. Even otherwise, such agreement having been produced during proceedings before Rent Controller, Ludhiana, the procedure under Section 340 Cr.P.C., should have been followed that is the Court concerned was required to conduct an enquiry into the matter. If some merit was found in the allegations, then the Court could have filed a complaint in writing against the accused or any other person found to be involved. It being so, FIR in the matter could not have possibly been lodged. Thus, the very maintainability of the FIR in this case is doubtful. The petitioner is in custody from 12.01.2021 to 04.08.2021 i.e. for a period of about 07 months. The guilt of the accused shall be determined during the trial, the conclusion of which is likely to take considerable time. The petitioner is stated to be not keeping good health. Medical documents in that regard have been placed on record. Thus considering all facts and circumstances of the case, I find it fit and appropriate to accept the petition and to direct the release of petitioner on

regular bail. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/CJM/Duty Magistrate, Ludhiana, subject to the following conditions:-

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses;
- (iii) he shall not indulge in any criminal activity;
- (iv) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard;

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

05.08.2021

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(H.S. MADAAN)
JUDGE

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