

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.25501 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.Inderpreet 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.169 dated 17.10.2020, under Sections 420, 406, 506 IPC, 1860 and Section 201 IPC (added later on), 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 10.05.2021 while dismissing the bail application of the petitioner, are as under:-

“ FIR in this case has been registered as per the application moved by the complainant Sumit Sood to the SSP Ropar against the accused/applicant to the effect that he through a broker Garib Nath Saini entered into an agreement to buy land 15.5 killas in village Jindpura, Tehsil Chamkaur Sahib, District Ropar on 16.12.2018 at a price of Rs.14.25 per acre.

The broker introduced Chand Kumar who represented himself to be the owner of the land. Even now the land was in the name of his brothers and some other ladies. Chand Kumar told that he would get the land transferred to the ownership of the complainant within one month. He took Rs.15 lacs in total as token amount and an agreement to sell was to be entered by 31.12.2018. He gave another amount of Rs.5 lacs on 25.12.2018. The land was shown in the agreement as ownership of Chand Kumar, Shiv Kumar, Raghu Raj, all sons of Sham Lal and Shakuntla Joshi, Mamta Devi and Sushila Devi are daughters of Kaushalya Devi. Chand Kumar after receiving Rs.20 lacs did not honour the above said agreement. Thereafter, the complainant was shocked to discover that the part of the land was un-cultivable. However, Chand Kumar promised to compensate the complainant by reducing the price of remaining portion of land by Rs.5 lacs, but did not do so. After suffering great harassment, the complainant has got a total of 12.28 acres of land registered in his name. Chand Kumar has given possession of the complete land to the complainant, but is not getting the sale deed signed executed and registered. The land is shown as joint holding of the khewatdars. Chand Kumar has received Rs.1,91,40,000/- in total for the above said land. Even though the total amount to be paid was only Rs.1,71,03167/-, thus Chand Kumar has criminally taken huge amount of money without registering the ownership of the land in the name of complainant. Chand Kumar has been trying to criminally tress pass the land in possession of the complainant. Thereafter, inquiry was conducted and on the basis of which, the present case has been registered.”

Learned counsel for the petitioner has argued that as per complainant Sumit Sood, the petitioner had agreed to sell the land in question to the complainant by claiming himself to be the exclusive owner and the fact that his cousins, namely, Sushila Sharma, Kamla Sharma and

Shakuntla were also his co-sharers in the said property was not disclosed. He submits that the petitioner is accused in FIR No.172 dated 24.10.2020, under Sections 419, 420, 465, 467, 468, 471 and 120-B IPC, Police Station Chamkaur Sahib, District Rupnagar lodged by the said sisters, namely, Sushila Sharma and Kamla Sharma and they have already executed an agreement to sell dated 21.08.2017 in favour of the petitioner and his suit for specific performance against them filed on 20.01.2020 is also pending. He has pointed out that on the strength of the said agreement to sell dated 21.08.2017, the petitioner has agreed to sell the land in question to Sumit Sood and this fact was well within his knowledge that the share of his sisters is also included. He submits that pursuant to the agreement to sell, without touching the share of his sisters, the petitioner has already transferred land measuring 12.28 acres in favour of Sumit Sood through different sale deeds executed in 2019-20 and apart from it, his suit for recovery of Rs.3,81,771/- (part of sale consideration) against Sumit Sood is also pending adjudication. He submits that though the trial has commenced, but only one prosecution witness has been examined in chief. He prays for bail.

On the other hand, learned State counsel, assisted by ASI Shinder Pal, has opposed the prayer. It is vehemently argued by the learned counsel for the complainant that the petitioner was not the owner of the land when he executed the agreement to sell dated 16.12.2018 with the petitioner. Learned counsel is unable to refute the stand of the learned counsel for the petitioner that the suit for recovery filed by him against the complainant is pending. Learned State counsel has not disputed that only one 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 trial is likely to consume considerable time as only one witness has been examined in chief out of total twenty two witnesses, 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
Whether Reportable:

Yes/No
Yes/No