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

Date of decision: 23.11.2021

[1] CRM-M-40520-2021

Saurabh Gupta

Petitioner

Versus

Union Territory, Chandigarh

Respondent

[2] CRM-M-37336-2021

Satpal Dagar

Petitioner

Versus

State of U.T., Chandigarh

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Ahluwalia, Advocate and
Mr. Sunil Sihag, Advocate for the petitioner
in CRM-M-40520-2021.

Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Japjit Singh Johal, Advocate and
Mr. Vishal Garg Narwana, Advocate for the petitioner
in CRM-M-37336-2021.

Mr. A.M. Punchhi, Public Prosecutor, U.T., Chandigarh.

AVNEESH JHINGAN, J (Oral):

[1] The petitioners in these two petitions are before this Court under Section 439 Cr.P.C. seeking regular bail in FIR No.63, dated 2nd March, 2021 under Sections 166, 201, 218, 328, 452, 331, 344, 365, 386, 419, 420, 465, 467, 468, 471, 473, 474, 477 and 120-B IPC and

Sections 13(1)(2) and 7 of the Prevention of Corruption Act, 1988 registered at Police Station, Sector 39, Chandigarh.

[2] Facts as per prosecution are that the dispute is with regard to House No. 340, Sector 37-A, Chandigarh. The house was initially owned by Santosh Mehta, wife of Ved Parkash Mehta and mother of Rahul Mehta. She died in the year 1986, her sister Sushila Kumari residing in London applied for transfer of house in her name on the basis of 'Will'. The matter relating to probate of 'Will' is pending in this Court and alienation of the house in question is stayed.

[3] As per contents of the FIR, Rahul Mehta is mentally unsound, his father died in the year 2017, Rahul Mehta was the only legal heir. Seeing the movement of Sanjeev Mahajan, Surjit Bouncer (now dead) and Shekhar in the house, on enquiry by Pandit Sita Ram Rattan, former S.S.P. (who used to look after Ved Parkash Mehta), he was informed that house was taken on rent from Rahul Mehta. He had the knowledge that Rahul Mehta was of unsound mind and incapable of executing a rent deed. The persons misbehaved with the former S.S.P., a written complaint alongwith medical certificate of Rahul Mehta was filed. Both the parties were called to the Police Station, Sector 39, Chandigarh on 14th January, 2017. The allegations are that S.H.O. of the police Station-Rajdeep Singh detached the medical certificate and did not take any action, only a warning was given to the parties.

[4] On 15th January, 2017, a rent agreement was executed between Rahul Mehta and Surjit Bouncer and also agreement to sell the

house was entered between Rahul Mehta and Vicky Arora at the instance of Sanjeev Mahajan, for consideration of Rs. 80 lakhs.

[5] Surjit Bouncer filed a civil suit for permanent injunction claiming himself to be a tenant, a consent decree was passed in the suit.

[6] On 6th April, 2017, another agreement to sell for consideration of rupees one crore was executed between Rahul Mehta and Khalender Singh Kadiyan who according to prosecution was face presented by Satpal Dagar.

[7] On 7th April, 2017, Rahul Mehta opened a bank account in Catholic Syrian Bank Limited, Sector 34, Chandigarh where Sanjeev Mahajan was already having his account. Sanjeev Mahajan took in his possession blank cheques signed by Rahul Mehta.

[8] On 19th April, 2017, apprehending threat to his life, Rahul Mehta fled from clutches of accused. He shared his concerns with Amit Gupta, a chemist to whom he used to go regularly for medication. On 23rd April, 2017, missing report of Rahul Mehta was filed by Surjit Bouncer.

[9] During investigation of the F.I.R., Amit Gupta was picked up by Rajdeep Singh, S.H.O., Police Station, Sector 39, Chandigarh on 26th April, 2017 to know the whereabouts of Rahul Mehta. Pending the proceedings, four accused were able to trace Rahul Mehta from Delhi and brought him back to Chandigarh.

[10] On 27th April, 2017, a registered General Power of Attorney [for brevity 'G.P.A.'] was executed by Rahul Mehta in favour of

Khalender Singh Kadiyan and one Arvind Singla in ration of 2/3rd and 1/3rd respectively and to deal with the affairs of Estate Office. Part of consideration in pursuance to GPA and agreement to sell was deposited in account of Rahul Mehta by both the GPA holders. As per statement recorded of Daljeet @ Rubal under Section 164 Cr.P.C. the amount deposited was withdrawn by him presenting himself as Jagdeep Singh and using the blank cheques signed by Rahul Mehta, which were in possession of Sanjeev Mahajan. After withdrawal the money was handed over to Sanjeev Mahajan. Considering that Rahul Mehta was no longer required, Surjit Bouncer took him to a stud farm at Bhuj, Gujarat owned by his friend Abdul Bajaniya @ Aneesh Bahi. Thereafter, after some time, owner of stud farm sent Rahul Mehta to an *Ashram* in Bhuj. He was further shifted to another *Ashram* in Maharashtra. Both the GPA holders in connivance with Satpal Dagar applied for transfer of ownership of house in favour of Rahul Mehta on the basis of forged documents. During investigation, it revealed that as per the opinion of handwriting expert, Khalender Singh Kadiyan signed as Rahul Mehta.

[11] Upon initiating the proceedings on the transfer application, notices to her legal heirs of Sushila Kumari were issued by the Estate Office. Response to the notices was managed by the accused by using forged documents. Ultimately the house was transferred in the name of Rahul Mehta.

[12] After transfer of ownership of house, GPA holders entered into agreement to sell with Saurabh Gupta through his brother Manish

Gupta. The aspiring purchaser applied for the loan with the bank. In the meantime, Khalender Singh Kadiyan managed to convert his individual account into joint account with Rahul Mehta. Further forged documents were used to meet the 'due diligence' requirement of the bank for sanctioning of the loan. Gurpreet Singh impersonated as Rahul Mehta before the bank authorities. As per report of CFSL, the application for conversion of individual account to joint account was in handwriting of Satpal Dagar.

[13] On 1st March, 2019, GPA in favour of Khalender Singh Kadiyan and Arvind Singla was cancelled and a sale deed executed in favour of Saurabh Gupta and for these proceedings Gurpreet Singh impersonating as Rahul Mehta. On bank's insistence for original title deed and transfer letter in favour of Rahul Mehta, a report regarding missing documents was got registered on behalf of Rahul Mehta. As per opinion of handwriting expert, the complaint for missing documents was written by Khalender Singh Kadiyan. The bank disbursed the loan to purchaser which was deposited in the joint account of Khalender Singh Kadiyan and Rahul Mehta in Corporation Bank. Saurabh Gupta took possession of the property and got it renovated. It revealed during the investigation that as per sale deed, consideration was Rs. 2.90 crores whereas actual consideration was Rs. 3.85 crores. An amount of Rs. 95 lakhs was paid in cash to Arvind Singla.

[14] In December, 2020, on transfer of Rajdeep Singh, SHO from Police Station, Sector 39, Chandigarh, the former SSP again lodged a

missing report of Rahul Mehta and in enquiry held on complaint, the above mentioned facts came to light.

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[15] Mr. P.S. Ahluwalia, Advocate appearing for Saurabh Gupta submits that petitioner is a *bonafide* purchaser. He had paid the consideration through banking channels. He lost his hard earned money and even the property purchased. No recovery is to be made from him. Investigation is complete. He is in custody since 20th July, 2021. He claims parity with his brother Manish Gupta who was granted bail by this Court.

[16] Mr. A.M. Punchhi, Public Prosecutor, U.T., Chandigarh opposes the prayer for grant of bail and submits that petitioner purchased a property alienation of which was stayed by the High Court. Further contention is that petitioner was aware of the fact that Rahul Mehta was being impersonated for executing the sale deed.

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[17] Mr. S.K. Garg Narwana, learned senior counsel appearing for Satpal Dagar argues that even as per the case set up, there are no allegations of direct involvement of the petitioner. The allegations are based upon disclosure statement. The contention is that even as per prosecution the application for converting the bank account of Khalender Singh Kadiyan to a joint account was only written by Satpal Dagar and not signed by him. It is alleged that it was written by him. He further submits that petitioner had business dealings with Khalender

Singh Kadiyan, the money was transferred by him to the petitioner through banking channels which is duly accounted for. He concludes his contention submitting that the petitioner is in custody since 4th March, 2021, investigation is complete and no recovery is to be made.

[18] Mr. A.M. Punchhi, Public Prosecutor, U.T., Chandigarh opposes the prayer for grant of bail. He submits that petitioner had played an active role in the scam. He is one of the beneficiary as an amount of Rs. 42 lakhs was transferred to his account from the account of Khalender Singh Kadiyan. Lateron, Satpal Dagar jointly purchased property with Khalender Singh Kadiyan.

[19] At the stage of dealing with the regular bail, this Court exercises a restraint from expounding on the merits of the case. Suffice to say that case set up by the prosecution against both petitioners is based primarily upon documentary evidence, no recovery is to be effected. Their custody is of more than four months and eight months respectively. The trial is at initial stage, charges are yet to be framed and conclusion of trial is likely to take time. Petitioners are granted regular bail subject to furnishing surety bonds of rupees five lakhs each to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Considering the nature of allegations and extent to which the roots of the case are alleged to be spread, the petitioners shall surrender their passports with the trial Court, if possessing one. They will inform the trial Court of change of their addresses, if any, during

the pendency of the trial.

[20] The petitions are allowed.

[21] However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

[22] Photocopy of this order be placed on the file of connected case.

**[AVNEESH JHINGAN]
JUDGE**

23rd November, 2021
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |