

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40369-2021

DATE OF DECISION: OCTOBER 1, 2021

GURCHARAN SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: Mr. Saurav Bhatia, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

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 Section 419, 420, 465, 467, 468, 471, 120-B IPC (Section 201, 212, 216 IPC, added later on), Police Station Shri Chamkaur Sahib, District Rupnagar. The petitioner is in custody since his arrest on 23.11.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Rupnagar, in the order dated 10.5.2021, 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 Chad 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. Complainant 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 Kamla Sharma and Sushila Sharme are real sisters, who have dispute with their cousin namely, Chand Kumar regarding inheritance of their ancestral property and the allegations in the FIR relate to the filing of different civil suits against the complainants and others. Therefore, apparently the dispute between the parties is of civil nature. He submits that as per allegations two suits filed by the petitioner were on same cause of action, therefore, he has committed an offence of cheating. According to

him, one of the suits had been withdrawn on the basis of compromise/settlement and mere filing of a suit before the Civil Court would not constitute an offence punishable under Indian Penal Code. He states that the investigation is complete, therefore, the petitioner be released on regular bail.

Learned State counsel assisted by ASI Shinder Pal Singh has opposed the aforesaid prayer and has argued that petitioner had forged the alleged agreement to sell in his favour and used the said instrument by instituting a suit for injunction. He on instructions further states that after completion of investigation, the final report was filed on 23.11.2020 and charges have been framed.

Considering the above background, custody of the petitioner and the fact that the offences are triable by a Magistrate, further detention of the petitioner behind the bars may not be necessary for any useful purpose who is presently confined in judicial custody after his arrest on 23.11.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

October 1, 2021
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(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No