

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) CRM-M-10947-2019 (O&M)
Surinder KaurPetitioner
Versus
State of PunjabRespondent

(2) CRM-M-49212-2019 (O&M)
Arjan Singh ParwanaPetitioner
Versus
State of Punjab and anotherRespondents

(3) CRM-M-23997-2021 (O&M)
Harjot KaurPetitioner
Versus
State of PunjabRespondent

(4) CRM-M-26076-2022 (O&M)
Kamlesh KakkarPetitioner
Versus
State of PunjabRespondent

(5) CRM-M-27339-2022 (O&M)
Nidhi SikkaPetitioner
Versus
State of PunjabRespondent

(6) CRM-M-27544-2022 (O&M)
Jimmy Maan and anotherPetitioners
Versus
State of PunjabRespondent

(2) CRM-M-10947-2019(O&M), CRM-M-49212-2019(O&M),
CRM-M-23997-2021(O&M), CRM-M-26076-2022(O&M),
CRM-M-27339-2022(O&M), CRM-M-27544-2022(O&M),
CRM-M-36346-2022(O&M)

(7)

CRM-M-36346-2022 (O&M)

Yuvraj Sikka

.....Petitioner

Versus

State of Punjab

.....Respondent

Date of Decision:- 21.10.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Jasraj Singh, Advocate
for the petitioner in CRM-M-10947-2019

Mr. S.S.Narula, Advocate
for the petitioner in CRM-M-49212-2019 and
for the complainant in CRM-M-23997-2021 and CRM-M-10947-2019

Mr. J.S.Brar, Advocate
for the petitioner in CRM-M-23997 and CRM-M-27544-2022

Mr. P.S. Mehrook, Advocate for
Mr. G.S.Kaura, Advocate for the petitioner in CRM-M-26076-2022,
CRM-M-27339-2022 and CRM-M-36346-2022

Mr. Luvinder Sofat, AAG, Punjab
assisted by HC Jitender Singh

Mr. Vivek Thakur, Advocate
for Respondent no.2 in CRM-M-49212-2019

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GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned seven petitions arising out of FIR i.e. FIR No. 5 dated 21.04.2018, under Sections 420, 120-B IPC (Sections 465, 467, 468, 471 IPC added lateron vide DDR No. 18 dated 25.10.2018) at Police Station NRI Jalandhar City. While in six of the

petitions, the petitioners Surinder Kaur, Harjot Kaur, Kamlesh Kakkar, Nidhi Sikka, Jimmy Maan, Haldy Maan @ Hedley Maan and Yuvraj Sikka seek grant of anticipatory bail, one petition i.e. CRM-M-49212-2019 has been filed by complainant Arjan Singh Parwana seeking cancellation of regular bail granted to Vishal Kakkar.

2. The FIR was lodged at the instance of Arjan Singh Parwana (NRI), who alleges that a fraud has been committed in respect of his land measuring 9 kanals 12 marlas situated in District Jalandhar, wherein a house and 26 shops have been constructed, known as “Parwana Palace” Market.
3. It is the case of complainant that complainant's father namely Tarlok Singh and mother Kartar Kaur had purchased land measuring 9 kanals 12 marlas vide Vasika No. 503 on 23.12.1968 from Kewal Krishan Jain. The name of Kewal Krishan, who had purchased the land from Rehabilitation Department vide Sale-Certificate dated 20.7.1967, was duly reflected in revenue record in year 1969-70. Subsequently, upon sale of said land to complainant's parents, vide sale-deed dated 23.12.1968, mutation no. 15128 was sanctioned in their favour and their names were reflected as owners in revenue record w.e.f. 1974-75. The land was shown to be comprised in *Khewat* No. 3146, *Khatoni* No. 3698, *Khasra* No. 28598/5183 to 5185.
4. It is the case of complainant that 26 shops, known as “Parwana Palace” Market, were constructed on this property and there was a residential house on the back side of shops. The shops had been rented out to different individuals by the complainant while the residential house has always been used by complainant's family for their residential purposes and the

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CRM-M-36346-2022(O&M)

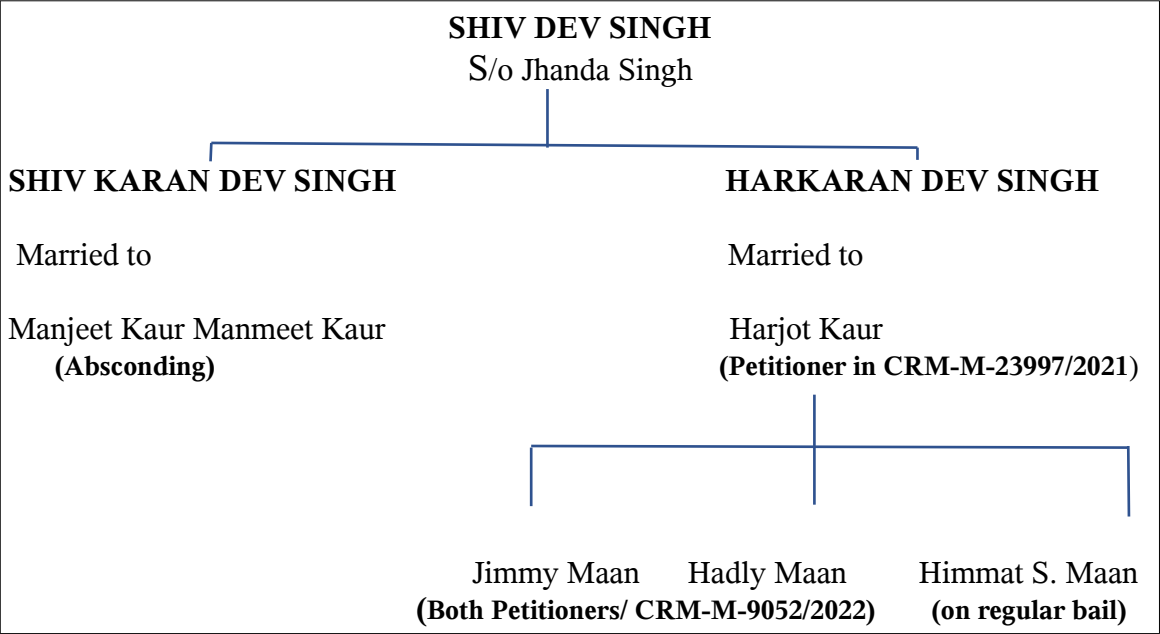
complainant resides there whenever he visits India. The water and electricity connection was also in the name of his father Tarlok Singh. After death of complainant's father, '*virasat-intkal*' (succession mutation) was sanctioned in favour of his legal heirs i.e. Kartar Kaur (wife) and his 3 sons namely Arjan Singh Parwana, Surinder Singh Parwana and Satnam Singh Parwana vide Mutation no. 45359 as per Jamabandi 2009-10. The complainant asserts that no part of property/land in question was sold by his family to any individual.

5. As per complainant, he and his family came to know through their Attorney that one Shri Sidharth Puri, Advocate had filed a case in the Court at Jalandhar in respect of *Khewat* No. 148-AC/PC on behalf of his client Vishal Kakkar, against Arjan Singh Parawana and other members of his family. The complainant alleges that thereafter he came to know that accused, on the basis of forged documents had got some mutations sanctioned in favour of some of the accused by incorporating the *khasra* numbers belonging to the complainant's family and had further sold off the property and had, thus, defrauded the complainant and his family.
6. The learned counsel representing the accused have submitted that they have falsely been implicated in the present case and that they derive their rights in property on the basis of Sale Certificate dated 16.1.1962 and that in case there is any incorrect entry or description in revenue record with regard to any share or rights of the petitioners, the same could be due to some inadvertent error having occurred at the time of recording such entries. It has been submitted that the matter, at best, is in the nature of a civil dispute and

since Civil Court is already seized of the matter, the present FIR is abuse of process of law and thus, the petitioners deserve the concession of bail.

7. It has additionally been submitted on behalf of Harjot Kaur (petitioner in CRM-M-23997-2021); and Jimmy Maan and Haldy Maan @ Hedley Maan (petitioners in CRM-M-27544-2022) that they had executed Power of Attorneys in favour of Som Nath in respect of properties owned by them and that it is the attorney Som Nath who has misused them without their knowledge or consent.
8. On the other hand, the learned State counsel has submitted that the matter has been inquired into at length and it has been found that the accused had indulged into forgery and fabrication and had got false mutations sanctioned so as to deprive the complainant of his land. The learned State counsel, while referring to report of SDM, Jalandhar, has submitted that the SDM after thoroughly examining the revenue record has concluded that the accused have committed a fraud and had got multiple mutations sanctioned and had used forged documents and used some documents twice over. It has, thus, been submitted that the petitioners do not deserve the concession of bail.
9. The learned counsel representing the complainant has also pressed upon his petition for cancellation of bail granted to accused Vishal Kakkar on the ground that he has been misusing the concession of bail and has been threatening the complainant to compromise the matter.
10. This court has considered rival submissions addressed before this Court and has also gone through the documents relied upon by the accused and the replies filed on behalf of State. Before proceeding further, it is apposite to

bear in mind lineage of some of the accused whose interest in the property flows from their ancestor Shivdev Singh. A pedigree table depicting the said lineage is reproduced herein-under :-



11. The investigation conducted by the police till date brings forth the following relevant facts:
- (i) Tarlok Singh and Kartar Kaur, parents of the complainant had purchased land measuring 9 kanals 12 marlas vide *Vasika* No. 503 dated 23.12.1968, from Kewal Krishan Jain who had purchased the same in an open auction on 09.12.1962, from Rehabilitation Department, Punjab. In the Sale Certificate dated 20.7.1967, the plot is described as Plot no. 1111, near Radio Station and is stated to be measuring 9 kanals and 12 Marlas.
 - (ii) The name of Kewal Krishan Jain, who had initially purchased the land from Rehabilitation Department vide Sale-Certificate dated 20.7.1967, was duly reflected in revenue record in year 1969-70. Subsequently, upon sale of said land to complainant's parents, vide sale-deed dated 23.12.68, mutation no. 15128 was sanctioned their favour and their names were reflected as owners in revenue record w.e.f. 1974-75. The land was shown to be comprised in *Khewat* No. 3146, *Khatoni* No. 3698, *Khasra* No. 28598/5183 to 5185 in revenue record.

(iii) The complainant's father had constructed a house and 26 shops (from time to time) on the land after taking permission from the Improvement Trust, Jalandhar. The said area is known as "Parwana Palace" market. After the demise of complainant's father on 10.05.2004 in U.K., his heirs including the complainant have stepped into his shoes.

(iv) The land, adjoining the land of Arjan Singh Parwana and family, was owned by Shiv Dev Singh, which was allotted to him vide Sale Certificate no. 520 dated 16.01.1962. However, in the said sale-certificate number area of land was specified and the land was simply described by its number as EH 8/3. Subsequently, on the basis of a '*Hibbanama*' (gift-deed) dated 20.07.1966, executed by Shiv Dev Singh, the land was gifted in favour of his 2 sons namely Shiv Karan Dev Singh and Harkaran Dev Singh, in equal shares. Shiv Dev Singh died on 30.04.1977. After his death, his two sons sold the land by measuring 2-K & 12-M way of executing 4 different sale-deeds in 1982 to Ajit Singh s/o Lachhman Singh. Each of the said 4 sale-deeds was for 13 Marlas. Thus, a total of 52 Marlas (2 kanals & 12 marlas) was sold. The purchaser Ajit Singh further sold the entire land measuring 2 kanals 12 marlas land to Dony Sidhu vide *Vasika* No. 1006 dated 20-06-1984.

12. The aforementioned facts would indicate that after sale of total land measuring 2K-12M in favour of Ajit Singh, the entire land stood sold and no land would be left with heirs of Shivkaran Singh and Harkaran Singh and as such, there was no question of sanction of mutation in their favour in respect of the said land. However, after the death of both Shivkaran Dev Singh and Harkaran Dev Singh on 6.3.1990 and 30.11.2002 respectively, their legal heirs, hatched a criminal conspiracy with Som Nath and Vishal Kakkar, with a motive to claim a part of the land owned and possessed by the complainant

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and his family (total land measuring 09K-12M), though falling in separate *Khatauni*, taking benefit of the similarity in *khasra* numbers. For the said purpose, a non-existent Sale Certificate dated 30.1.1962 was relied upon to enter mutation of 2K-12M of land, in connivance with the local revenue officials though the correct date of Sale-Certificate is 16.1.1962. This confusion was created intentionally so as to enable accused to get another mutation sanctioned subsequently, on the basis of correct sale certificate dated 16.1.1962. A string of mutations was got sanctioned on the basis of Sale-Certificate dated 30.1.1962 (non-existent) whereas the actual Sale-Certificate is dated 16.1.1962. The said string of 7 mutations is shown in tabulated form herein-under :

Sr. No	Mutation	Date of entry of Mutation	Type of Mutation	Sale deed No./date	Area	From	To
1	36922	10.10.2011	Sale Deed	Sale certificate 30.01.1962	02K-12M	Central government	Shiv Dev Singh son of Jhanda Singh
2	36923	10.10.2011	Hibbanama	Gift Deed no. 2559 dated 20.07.1966	02K-12M	Shiv Dev Singh son of Jhanda Singh	Shiv Karan Dev Singh, Harkaran Dev Singh sons Shiv Dev Singh in equal shares
3	36924	10.10.2011	Sale Deed	2642 dated 12.7.1982	13M	Shiv Karan Dev s/o Shiv Dev Singh	Ajit Singh Advocate son of Lachman Singh
4	36925	10.10.2011	Sale Deed	1207 dated 19.5.1982	13M	Shiv Karan Dev son of Shiv Dev Singh	Ajit Singh Advocate son of Lachman Singh
5	36926	16.05.2011	Sale Deed	12.07.1982	13M	Harkaran Dev Singh son of Shiv Dev Singh	Ajit Singh Advocate son of Lachman Singh
6	37251	22.09.2011	Sale Deed	1554 dated 2.6.1982	13M	Harkaran Dev Singh s/o Shiv Dev Singh	Ajit Singh Advocate son of Lachman Singh
7	37252	22.09.2011	Sale Deed	1006 dated 20.06.1984	2k-12M	Ajit Singh Advocate s/oLachman	Dony Sidhu son of Martin Luthar

13. The it needs to be highlighted here that the above-mentioned entries flowing from Sale-Certificate were recorded in revenue record in 2011 for the first time on the basis of a non-existent Sale-Certificate dated 30.1.1962, which has not seen the light of of the day till date. Still further, the '*Hibbanama*' (gift-deed) no. 2559 dated 20.07.1966, on the basis of which Mutation no. 36923 regarding land measuring 2K-12M was sanctioned, was again used to get the land measuring 2K-9M mutated in favour of two sons of Shivdev Singh namely Shivkaran Dev Singh and Harkaran Dev Singh. The said second string of mutations is described in tabulated form hereinunder:

Sr. No	Mutation	Date of entry of Mutation	Type of Mutation	Sale deed No./date	Area	From	To
1	38588	18.12.2012	Sale Deed	520 dated 16.01.62	02K-9M	Central government	Shiv Dev Singh son of Jhanda Singh
2	38989	18.12.2012	Hibbanama	2559 dated 20.07.1966	02K-9M	Shiv Dev Singh son of Jhanda Singh	Shiv Karan Dev Singh, Harkaran Dev Singh sons Shiv Dev Singh in equal shares
3	38990	18.12.2012	Inheritance	Death on 30.11.2000	Total area	Harkaran Dev Singh son of Shiv Dev Singh	Harjot Kaur widow, Himmat Singh, Hedly Maan, Jimmy Maan sons of Harkaran Dev Singh in equal share
4	38991	18.12.2012	Inheritance	Through registered will No. 268 dated 5.3.1990	Total area	Shiv Karan Dev son of Shiv Dev Singh	Manjeet Kaur alias Manmeet Kaur widow of Shiv Karan Dev Singh

14. The above-mentioned mutations in favour of heirs of Shivkaran Dev Singh and Harkaran Dev Singh are fraudulent mutations as Shivkaran Dev Singh and Harkaran Dev Singh were not left with any land after selling the same to

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Ajit Singh Advocate in 1982. Pursuant to said fraudulent mutations in favour, the land was sold by their Attorneys and mutations were also sanctioned, the particulars of which are mentioned herein-under:

Sr. No	Mutation	Date of entry of Mutation	Type of Mutation	Sale deed No./date	Area	From	To
1	42323	7.10.2015	Sale Deed	6064 dated 30.9.2015	5 M	Manjit Kaur widow of Shiv Karan Dev Singh	Apple Associates
2	42324	7.10.2015	Sale Deed	6065 dated 30.9.2015	5 M	Manjit Kaur widow of Shiv Karan Dev Singh	True Value Associates
3	42325	7.10.2015	Sale Deed	6066 dated 30.9.2015	5 M	Manjit Kaur widow of Shiv Karan Dev Singh	Platinum Associates
4	42326	7.10.2015	Sale Deed	6067 dated 30.9.2015	5 M	Manjit Kaur widow of Shiv Karan Dev Singh	Titanium Associates
5	42327	7.10.2015	Sale Deed	6068 dated 30.9.2015	5 M	Manjit Kaur widow of Shiv Karan Dev Singh	Punjab Associates
6	45169	27.11.2017	Sale Deed	8724 dated 15.11.2017	3.25M	Harjot Kaur widow, Himmat Singh, Hedly Maan, Jimmy Maan sons of Harkaran Dev Singh	Surinder Kaur wife of Jatinder Pal Singh
7	45332		Sale Deed	10566 dated 28.12.2017	3.75M	Harjot Kaur widow, Himmat Singh, Hedly Maan, Jimmy Maan sons of Harkaran Dev Singh	Baljit Kaur Dhillon wife of Shiv Nath

15. All the above mentioned seven mutations are a result of fraud perpetuated on the basis of non-existent sale-certificate by heirs of two sons of Shivdev Singh, in connivance with Attorney Som Nath and others.

16. At this juncture, a reference needs to be made to the report of SDM, Jalandhar, which was submitted to the Deputy Commissioner, Jalandhar. The SDM, while taking into account the entire revenue record pertaining to the land of the complainant and also the land of Shiv Dev Singh concluded that the accused have defrauded the complainant. The relevant extract is reproduced herein-under :-

“.....Sale Certificate dated 20.07.1967 in favour of Kewal Krishan s/o Sh. Kapur Chand regarding plot No.1111, Near Radio Station, Jullundur area 9 Kanal 12 Marla was issued by the then Tehsildar (Sales) cum Managing Director, Jalandhar, which is correct as per record, in this regard it is submitted on the basis of above Sale Certificate dated 20.07.1967 mutation No.10377 relating to khasra No: 28598/5183 to 5188, 26842, 26846/515. 5190, 5196 area 9 Kanal 12 Marla was sanctioned in favour of Sh. Kewal Krishan s/o Kapur Chand on 28.09.1967.

As per the jamabandi for the year 1963-64 relating to khewat No. 1198, Khasra No.28598/5183 to 5198, 26840, 26842 area measuring 09 Kanals 13 and as per Jamabandi for the year 2004-2005 khewat No.3571 the ownership of these khasra numbers is at Central Government.....

.....It is further submitted that during the course of enquiry, it has been revealed that the relevant file relating to sale certificate No.1520 dated 30.1.62 (as shown at Sr. No. 1 of above table) on the basis of which entered the then patwari Shri Dhira Singh had entered mutation number 36922 from Central Government in favour of Shiv Dev Singh son of Jhanda Singh on 13.5.11. which was compared by Sh. Jarnail Singh, Kanungo and thereafter sanctioned by Sh.Yash Pal Sharma, the then Tehsildar, Jalandhar being Circle Revenue Officer, has not been found in the general record.....

.....It has already been submitted above that one Hibanama bearing document number 2559 dated 20.7.1966 from Shiv Dev Singh son of Jhanda Singh in favour of Shiv Karan Dev Singh, Harkarandev Singh sons of Shiv Dev Singh was got registered. On the basis this Hibanama

(Wasika) through mutation No.36923, area measuring 02-Kanals 12-Marlas dated 13.5.11 was entered and sanctioned on 18.10.11 but again on the basis of this wasika, second time mutation number 38989 area measuring 02-Kanals 09-marlas from Shiv Dev Singh son of Jhanda Singh in favour of Shivkaran Dev Singh, Harkaran Dev Singh favour equal share was entered on 18.12.12 and sanctioned on 30.12.12, which is wrong as per rules. The position in this regard has also explained in above table.

From the position explained above, it has been observed that mutation No.36922 was entered on the basis of sale certificate No.520 dated 30.1.1962, whereas, its file has not been found in the general record from. Moreover, no prior sanction has been obtained from the higher authorities before the entrance of this mutation, it has been observed that the same was entered on the basis of sale certificate no.520 dated 16.1.1962, whereas neither the area of the property in question has been mentioned, nor the detail of khasra numbers has been mentioned therein. In this case also, no prior sanction was obtained from the higher authorities before the entrance of this mutation.....”

17. The facts which surfaced during the course of investigation, as noticed above and also the report of SDM make it clearly evident that the land which had been allotted to Shivdev Singh on the basis of Sale Certificates dated 16.1.1962 had been gifted by him to his two sons namely Shivkaran Dev Singh and Harkaran Dev Singh, who disposed of the same by way of executing four sale deeds in respect of 13 marlas each in the year 1982 and thereafter were left with no other piece of land. In these circumstances, execution of Power of Attorneys by the legal heirs of Shivkaran Dev Singh and Harkaran Dev Singh who infact did not own any land, is evidently a step to perpetuate the fraud. The attorney Som Nath on the basis of said Power of Attorneys executed sale deeds in favour of 5 firms namely Platinum Associates, Punjab Associates, Titanium Associates, Apple Associates and

True Value Associates which were all owed by Vishal Kakkar as proprietor/partner and were being run by his wife. Infact all the transactions were all bogus transactions inasmuch as the cheques issued as sale consideration were never encashed. Nor is there any evidence to show that Som Nath had paid any amount to Harjot Kaur etc. who had appointed him as attorney. As such, the complicity of petitioner Harjot Kaur and of her sons Jimmy Maan and Haldy Maan is clearly borne out.

18. As far as cases of petitioners Kamlesh Kakkar, Nidhi Sikka and Yuvraj Sikka are concerned, though they have taken a plea of being *bonafide* purchasers of land but having regard to the fact that cheques issued by them being share holders of the firms, towards consideration amount were not got encashed, it is evident that the same were bogus and fraudulent transactions.
19. Now coming to the case of Surinder Kaur, it needs to be noticed that Jatinder Pal Singh Bedi, husband of the petitioner Surinder Kaur had been inducted as a tenant by complainant's father and in respect of which civil litigation in the shape of ejectment petition, had also taken place and the tenant M/s Bedi Auto Engineers and others were ordered to be evicted. During course of proceeding before the High Court said Jatinder Pal Singh Bedi admitted himself to be tenant of Parwana family. In these circumstances, Surinder Kaur could not have been expected to be oblivious of the fact that the shop in question is owned by 'Parwana family'. She having purchased the shop through Som Nath, acting as attorney of Harjot Kaur etc., despite being aware of the correct ownership of the shop, would lead to a valid inference that she is also part and parcel of fraud in question.

20. Thus, it is evident that all the accused including the petitioners executed a well orchestrated conspiracy to defraud the complainant and to usurp the property on the basis of forged and fabricated documents, fraudulent transactions and fraudulent entries in revenue records. The foundation of case of accused is based on sale certificate dated 30.1.1962, stated to be for 2K – 9M, which is a non-existent document, which has never seen light of the day. The plea of being the *bonafide* purchaser is certainly not available to Surinder Kaur whose husband was tenant of Parwana family, in a shop which she purchased. Nor such plea is available to Kamlesh Kakkar, Nidhi Sikka and Yuvraj Sikka as their transactions are sham transactions without consideration. Harjot Kaur, Jimmy Maan and Haldy Maan had executed power of attorney of a property which already stood disposed of. Harjot Kaur, Jimmy Maan and Haldy Maan had even been declared proclaimed offenders. In these circumstances, no special case for grant of anticipatory bail is made out in favour of either of the petitioners. The prayer for grant of anticipatory bail on behalf of the petitioners merits dismissal and is declined.
21. However, having regard to the fact that four of the petitioners are ladies including Kamlesh Kakkar, who is 75 years old and the case is mainly based on documentary evidence, most of which has already been collected by the police, it is directed that in case the petitioners surrender before the trial court within two weeks from today and move an application for grant of regular bail, the trial Court shall dispose of the same expeditiously in the shortest possible time and in any case not later than 3 days from filing of such applications. Needless to mention, the trial Court, while deciding such

applications shall have due regard to the aforesaid special circumstances including the age of the ladies.

22. As far as the petition filed by complainant Arjan Singh Parwana for cancellation of regular bail granted to Vishal Kakkar is concerned, though the learned counsel representing the complainant has submitted that Vishal Kakkar is threatening the complainant to compromise the matter, but in the absence of any cogent evidence to substantiate such allegations, no case for grant of cancellation of bail is made out. The petition for cancellation of bail i.e. CRM-M-49212-2019, being sans merit, is hereby dismissed.

21.10.2022

kamal

(Gurvinder Singh Gill)
Judge

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