

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

**CRM-M-14765-2022
Date of Decision: 19.04.2022**

Narinder Kapoor

...Petitioner

Versus

State of UT Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Jagat Vir Dhindsa, Advocate for
Mr. Preetinder S. Ahluwalia, Advocate
for the petitioner.

Ms. Simsi Dhir, Addl. P.P. for U.T. Chandigarh.

JASGURPREET SINGH PURI, J.(ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.97, dated 04.07.2009 under Section 420 of IPC, 1860 registered at Police Station Sector-3, Chandigarh.

2. It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 24.09.2021 and the investigation of the case has already been completed and one witness has been examined. He submitted that it is a case where an FIR was lodged by giving a criminal flavour to a pure and simple civil dispute. He submitted that the allegation in the FIR was that the petitioner had taken an amount of Rs.16,75,000/- from the complainant after executing an agreement to sell which ultimately was not honoured by the petitioner and even thereafter some cheques were also bounced. He submitted that instead of filing a suit for specific performance or invoking any civil remedy for the purpose of redressal of grievance, if any, the

complainant chose to lodge an FIR in a purely civil dispute which is an abuse of the process of law. He submitted that although the petitioner was earlier declared proclaimed person but thereafter he was produced in the Court on the basis of production warrants and as on today he is not a proclaimed person. He submitted that even otherwise the entire case is based upon the documentary evidence and no recovery is to be effected from the petitioner. He further submitted that the petitioner is also involved in three more cases pertaining to similar kind of civil liability if any and the petitioner is already on bail in those three cases. He also submitted that further custody of the petitioner is not justified in view of the aforesaid position.

3. On the other hand, Ms. Simsi Dhir, learned Addl. P.P. for U.T. Chandigarh has submitted that it is correct that the petitioner is in custody from 24.09.2021 and no recovery is to be effected from the petitioner. She has further submitted that the petitioner is involved in three more cases pertaining to similar nature and he is already on bail in those cases. She further submitted that the ingredients of Section 420 IPC were fulfilled in view of the fact that the petitioner had an intention to cheat right from the beginning.

4. I have heard the learned counsel for the parties.

5. The petitioner is in custody from 24.09.2021. Earlier he was declared proclaimed person but thereafter he was produced in custody and as per the allegations contained in the FIR, the petitioner did not honour the agreement to sell. Only one witness has been examined till date. The trial of the case may take a long time and it is a case which is triable by the Magistrate.

6. Furthermore, it is not the case of the State that in case, the petitioner is released on bail then he may abscond or may influence any witness or may tamper with any evidence, particularly in view of the fact

that the entire case is based upon documentary evidence coupled with the fact that the case is triable by the Magistrate.

7. Therefore, considering the totality of facts and circumstances of the present case, this Court deems it fit and proper to grant bail to the petitioner. Consequently, the present petition is allowed and the petitioner is released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

8. It is made clear that the aforesaid observations would not mean anything on the merits of the case, as the same are only for the purpose of deciding the present petition.

(JASGURPREET SINGH PURI)
JUDGE

April 19, 2022
Manpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No