

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

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**CRM-M-22234-2022 (O&M)
Date of decision: 27.05.2022**

ROHTASH

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Vikas Lochab, Advocate
for the petitioner.

Mr. Ashish Yadav, Additional AG Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

This is the first petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner during the pendency of trial in case bearing FIR No.0020 dated 22.01.2021 under Sections 406, 420, 465, 467, 468, 471 and 120-B of Indian Penal Code, 1860 registered at Police Station Dadri City District Charkhi Dadri (in the impugned order wrongly mentioned as Police Station City, Charkhi Dadri).

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the FIR in question was registered at the instance of the complainant namely M/s Cholamandalam Investment and Finance Company Ltd. As per the allegations set out in the FIR, the co-accused Partap Singh son of Jug Lal resident of VPO Gurera, Tehsil & District Bhiwani had approached the aforementioned finance company for the purpose of seeking financial facility for purchase of tractor SWARAJ 855-55 H.P. The said tractor was hypothecated by co-accused Partap Singh and the tractor thereafter was obtained on a premise that

the same shall not be disposed of till the entire loan amount, so advanced by the finance company, is repaid. However, without obtaining any NOC and on the strength of forged and fabricated documents, the tractor in question was sold by co-accused Partap Singh in favour of one Rajat Kumar.

Learned counsel contends that the petitioner is not named in the FIR and has not been attributed any role. Learned counsel further contends that as per the best case of the prosecution, the petitioner is only alleged to have taken delivery of the said tractor on behalf of Partap Singh. The substantive role pertaining to the tractor in question was played by co-accused Partap Singh. He further contends that the investigation in the instant case is complete and upon effecting recovery of the case property, the final report under Section 173 of the Cr.P.C. has also been filed before the Illaqa Magistrate. Now no recovery is to be effected from the petitioner. He further contended that the case in hand is a magisterial trial and completion of the trial might take a long time. It is also pointed out that the petitioner does not have any criminal antecedents. He further contends that the co-accused namely Hawa Singh has also been extended the concession of regular bail by this Court vide order dated 20.05.2022 in CRM-M-21060-2022.

Per contra, learned State counsel submits that the petitioner was the main conspirator along with co-accused Partap Singh. However, he could not controvert the fact that the finances for purchase of the said vehicle were obtained by Partap Singh and that the petitioner was not the beneficiary of the sale proceeds received by selling the tractor in question. He further submits that the petitioner had not only taken the delivery of the tractor but he further sold the said tractor on the strength of an affidavit claiming himself to be ostensible owner of the tractor

in question and declaring that Partap Singh had sold the said tractor to him. He contends that the NOC was also fabricated by the petitioner in connivance with other co-accused to facilitate sale of the said tractor. He however could not controvert the fact that investigation in the case is already complete and all recoveries, if any, already stand effected.

Hence, taking into consideration the role attributed to the petitioner, his criminal antecedents and the fact that he is not the beneficiary of the sale proceeds earned through sale of the tractor in question as well as the stage of trial, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

May 27, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>