

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-22203-2022

Date of Decision: 25.07.2022

Lakhwinder Singh

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vikram Chaudhri, Sr. Advocate with
Mr. SS Momi, Advocate and
Mr. Kamal Sharma, Advocate for the petitioners

Mr. Deepak Sabharwal, Addl. AG Haryana

Mr. Aman Pal, Advocate for the complainant

VIKAS BAHL, J. (Oral)

This is the 1st petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.216 dated 03.07.2020 registered under Sections 406/420/506/201/120-B IPC (Sections 467/468/471 IPC added later on) at PS Taraori, District Karnal.

Learned senior counsel appearing for the petitioner has submitted that the petitioner is in custody since 03.02.2022 and the challan has been presented and there are 108 witnesses and since charges have also not been framed, thus, the trial is likely to take some time.

It is submitted that the present case primarily involves a civil dispute which is sought to be given a criminal colour. It is submitted that after the paddy was supplied by the complainant, the accused party kept on making timely payments and even from the FIR it is clear that out of the alleged total amount of Rs.11,12,24,277/-, an amount of Rs.4,49,00,000/- has already been paid and has submitted that the allegations in the FIR to

the said effect itself suggest that there was no fraudulent inducement. It is submitted that the present petitioner is not even a partner in the partnership firm to which the paddy has been supplied. It is submitted that the case is triable by a Magistrate and the entire case is based on documentary evidence and thus no purpose would be served in keeping the present petitioner in further incarceration.

Learned senior counsel has further submitted that talks of settlement are underway and in furtherance thereof, the petitioner has paid Rs.29 lakhs to the complainant party and has also executed sale deeds with respect to 14 shops in favour of the complainant and has also executed an agreement to sell for 27 kanals of land in favour of the complainant. It is submitted that the same has been done only to show their *bona fide* without admitting their liability.

Learned senior counsel has also submitted that in the present case, the petitioner has filed a suit for recovery and is also ready to get the sale deed of the said 27 kanals of land executed in favour of the complainant in case, the matter is finally settled and in case, the complainant party agrees to get the FIR in question quashed.

Learned senior counsel has further submitted that the complainant has filed a civil suit qua the recovery of money and all issues would be adjudicated in the said civil suit after giving opportunity to both the parties to lead evidence.

Learned State counsel as well as counsel for the complainant have vehemently opposed the application of regular bail and have submitted that the petitioner is involved in 4 other cases. It is further submitted that as far as the sale deeds of 14 shops are concerned, those

shops are occupied by various persons and thus, it would be difficult for them to take possession of the same. It is submitted that even with respect to the land measuring 27 kanals, some litigation is pending.

Learned counsel for the complainant and the State have also pointed out that that certain false documents have been prepared by the petitioner in order to support their defence and have thus, opposed grant of regular bail.

Learned senior counsel for the petitioner in rebuttal has submitted that in fact, the paddy supplied to the petitioner was of a substandard quality and the disputes have arisen on the basis of the same. Further, reliance is placed upon a judgment of the Supreme Court in case titled as “**Maulana Mohd. Amir Rashadi vs. State of U.P. & Anr.**” reported as **(2012) 2 SCC 382** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases.

This Court has heard the arguments of learned counsel for the parties and perused the paperbook.

The petitioner has been in custody since 03.02.2022 and the investigation in the present case is complete *qua* the petitioner and the challan against the petitioner has been presented on 12.04.2022. There are 108 witnesses and since, even the charges have not been framed as yet, the trial is likely to take time. The case is triable by a Magistrate and the dispute in question has civil trappings. A civil suit has been filed by the complainant with respect to the present dispute and it will be for the civil

court to finally adjudicate all the issues raised by the parties, after both the parties are given opportunity to lead their evidence.

This Court has been apprised of the fact that an amount of Rs.25 lakhs has been paid by the petitioner to the complainant, without prejudice to his rights and the sale deeds with respect to the 14 shops have also been executed and an agreement with respect to the sale of land measuring 27 kanals has also been entered into and there seems to be a possibility that the matter could be finally settled between the parties.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate, Karnal and subject to him not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

It is, however, made clear that in case the petitioner influences or threatens any witness, then it would be open to the State to move an application for cancellation of bail of the petitioner.

25.07.2022

V.Vishal

(VIKAS BAHL)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No