

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-24976-2022
Decided on : 04.07.2022

Gopal Angra

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Shiva Khurmi, Advocate and
Mr. Sarfraj Hussain, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 55 dated 17.04.2022 under Sections 465, 467, 468, 471, 420, 406 and 120-B of the Indian Penal Code, 1860 registered at Police Station City Phagwara, District Kapurthala.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. It is further submitted that there is no agreement between the petitioner and the complainant and infact, the agreement to sell is between the petitioner and one Dilbag Rai who was the owner of the property in question and the said agreement is dated 22.01.2015 (Annexure P-1). It is contended that a suit for specific performance was filed by the petitioner against

the said owner Dilbag Rai and one Balwant Singh and in the said suit, an interim order was passed on 07.04.2015 by the Additional Civil Judge (Senior Division), Garhshankar. It is further contended that the petitioner, who was neither the seller nor the purchaser nor the attesting witness to the said agreement, had filed a complaint by alleging that he had paid Rs.40 lakh to the present petitioner which was supposed to be a part of the earnest money of the agreement dated 22.01.2015. It is argued that there is no written document muchless, receipt with respect to the said amount of Rs.40 lakh and earlier complaints have been repeatedly found to be false and the complaint in the present case had been referred and an enquiry report (page 22) dated 17.11.2015 had been submitted as per which the Deputy Superintendent of Police/investigation had observed that the complainant (applicant therein) could not produce any solid evidence with regard to the allegation levelled and thus, recommended to file the application. It is further argued that even as per the legal opinion of the Deputy DA, it had been opined that the complainant could not produce any evidence/documents regarding the transaction and no criminal offence was made out against the present petitioner. It is submitted that the other co-accused of the present petitioner has been granted the concession of anticipatory bail and the present petitioner has been in custody since 22.04.2022 and the challan in the present case has not been presented, thus, the trial is likely to take time. It is further submitted that the FIR has been registered after a delay of 7 years i.e.

from the date on which the said agreement was executed and the petitioner is not involved in any other case.

Learned State counsel, on the other hand, has opposed the present application for regular bail and on instructions of ASI Ashok Kumar, has submitted that as per the allegations in the FIR, Rs.40lakh was paid by the complainant to the accused persons so that they could enter into an agreement to sell with Dilbag Rai and the said amount of Rs.40 lakh has not been returned by the petitioner and the other accused.

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

It is not in dispute that there is no written document showing that an amount of Rs.40 lakh was ever paid by the complainant to the petitioner or to the other accused persons. The agreement dated 22.01.2015 has been executed between the petitioner and the owner Dilbag Rai and the name of the complainant does not find mention anywhere in the same. A civil suit was filed by the petitioner against the said owner and the civil Court vide order dated 07.04.2015 (Annexure P-2) was pleased to grant interim order in favour of the petitioner. The earlier complaints filed by the complainant on the same set of allegations were found to be false as per Annexure P-4 and even as per the opinion of the Deputy DA dated 29.02.2020 (Annexure P-5), no document had been produced by the complainant to show any criminal offence was made out against the petitioner. The co-accused of the

present petitioner has already been granted the benefit of anticipatory bail. The petitioner has been in custody since 22.04.2022 and since the challan has not been presented, thus, conclusion of trial is likely to take time. The FIR has been registered after a delay of 7 years i.e. from the date of the alleged transaction in the year 2015. The petitioner is stated to be not involved in any other case.

Keeping in view the abovesaid 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 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 would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

July 4th, 2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No