

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

218

CRM-M-27387 of 2022

Date of Decision: 07.09.2022

Sanjay

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana

Mr. Parminder Singh, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.119 dated 23.02.2022, under Sections 406, 420, 34 of the IPC, registered at Police Station Gharaunda, District Karnal.

It has been submitted by the learned counsel for the petitioner that it is the case where the allegations against the petitioner are that he had executed an agreement to sell with three different persons successively and had received approximately Rs.2.13 Crores from three persons but did not execute the agreement to sell. He submitted that in fact it was a case when the agreement to

sell was to be executed but all the three vendees did not turn up for executing the sale deed and it was due to their fault that the sale deed was not executed and thereafter the earnest money taken by the petitioner was in fact forfeited. He further submitted that be that as it may the petitioner had filed a suit for mandatory injunction against the present complainant-respondent No.2 for getting the sale deed executed and it is yet to be ascertained either at the time of trial or in the civil proceedings as to whether the earnest money received by the petitioner from the different three persons including the complainant-respondent No.2 that the petitioner was entitled for forfeiting the earnest money or not. He submitted that the petitioner is in custody since 31.03.2022 and the investigation has already been completed and no further recovery is to be effected from the petitioner. He has submitted that the present case is triable by the Magistrate and the petitioner has already faced incarceration for more than five months and has prayed that he may be considered for grant of regular bail.

On the other hand, learned State counsel has stated that it is correct that the petitioner is in custody from 31.03.2021 and the investigation of the case is completed and thereafter the report under Section 173 of the Code of Criminal Procedure has been presented before the competent Court and the present case is triable by the Magistrate.

Mr. Parminder Singh, Advocate has caused appearance on behalf of respondent No.2-complainant and he has stated that the petitioner has cheated three different persons successively.

On query being raised to the learned counsel for respondent No.2-complainant as to whether any civil suit for specific performance has been filed by

any of the proposed vendees or not. He stated that now respondent No.2 who is the third proposed vendee and even the proposed second vendee are also contemplating to file civil suit for specific performance/recovery very shortly. He has opposed the grant of regular bail on the ground that the petitioner has not returned the amount and committed a fraud upon the complainant.

I have heard the learned counsel for the parties.

The petitioner is in custody since 31.03.2022 and it is the case which is triable by a Magistrate and the investigation of the case has already been completed. It has been stated by learned counsel for respondent No.2 that a suit for specific performance/recovery is likely to be filed against the petitioner very shortly by respondent No.2.

The arguments raised by learned counsel for the petitioner that the amount which he has received successively was in fact forfeited under the law since the proposed vendees did not turn up for getting the sale deed registered and it is yet to be ascertained by way of civil proceedings or otherwise as to whether the petitioner has a right to forfeit the amount or not does carry weight.

Apart from the same, it is not the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail, then he may abscond or flee from justice and influence any witness or tamper with evidence.

In view of the aforesaid totality of the facts and circumstances, the petitioner deserves the concession of regular bail and consequently the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty

Magistrate concerned.

However, anything observed hereinabove shall not be treated as an
expresion of opinion on merits of the case and is only meant for the purpose of
decision of present petition.

(JASGURPREET SINGH PURI)
JUDGE

September 07, 2022
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No