

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

CRM-M-29925-2022

Date of Decision:-21.09.2022

Gulshan Kumar.

.....**Petitioner.**

Versus

State of Haryana.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Dinesh Arora, Advocate for the Petitioner.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under section 439 Cr.PC is for the grant of regular bail in case FIR No.395 dated 23.09.2021 under Sections 420, 467, 468, 471 IPC and 120-B IPC(added later on) registered at Police Station Kalanaur, District Rohtak.

The brief facts of the case are that the Tehsildar and Sub Registrar Kalanaur made a complaint to Police Station Kalanaur with the allegations that one Rajesh Kumar son of Late Chiman Lal had given an application that Atma Ram son of Gopal Dass presently residing in Orissa had sold his land measuring 7 Kanal 11 Marla for an amount of Rs.10 lacs in favour of Smt. Sunita wife of Gulshan (petitioner) by virtue of a document no.614 dated 16.06.2021 as owner of the land. In fact some other person had been projected as seller Atma Ram and produced registration of

the sale deed and his Aadhar Card which has been prepared fraudulently and some person other than Atma Ram had got the sale deed registered impersonating Atma Ram. Therefore, an inquiry was sought.

During the course of inquiry it transpired that sale deed no.614 dated 16.06.2021 had been registered by Atma Ram son of Gopal Dass in favour of Smt. Sunita wife of Gulshan (petitioner) for Rs.10 lacs. Gulshan appeared as witness no.2 and Amrit Singh Sarvara Lamberdar identified the witness no.2. As per the office record, copies of Aadhar Card of the seller, Aadhar Card of the buyer and PAN Card and Aadhar Card of the witness no.2 and identity card of Lamberdar, were all available on record. Regarding the identity of Atma Ram seller, Lamberdars of village namely Sh. Raghbir Singh, Sh. Devraj, Sh. Ramniwas, Sh. Tilak Raj, Smt. Rajrani, Sh. Rai Singh retired Chokidar and Sh. Charanjit son of Ramchandra and complainant Rajesh Kumar stated that they had not seen Atma Ram son of Gopal Dass and they did not have any knowledge about his whereabouts. The buyer Smt. Sunita and witness no.2 Gulshan (petitioner) were also given notice to appear with the seller but they refused to accept notice. Amrit Singh Sarvara, Lamberdar disclosed that at the time of registration of the sale deed he had identified witness no.2 Gulshan Kumar (petitioner) whom he knew. Gulshan Kumar had brought two sale deeds for identification and he had identified the same due to personal relations. A report was obtained regarding the ownership of the land and it was found that it was in the name of Atma Ram son of Gopal Dass. The seller, buyer and witness no.2 did not appear in the inquiry.

Based on the aforementioned allegations and subsequent enquiry the present FIR came to be registered.

The Counsel of the petitioner contends that the petitioner himself has been cheated. There is nothing on record to show that the petitioner had any prior knowledge that the original Atma Ram was unwell had died and the person who executed the sale deed was an imposter. The petitioner believed what was presented to him by the person who had arranged the sale. In fact one Ramesh son of Mange Ram had come to him with a proposal for purchase of the property. It was Ramesh, who had fixed the deal with the fictitious Atma Ram and the petitioner and his wife. The payment had been made by way of cheque from the account of his daughter. It was only subsequently that it came to light that the person arranged by Ramesh was not Atma Ram. He also contends that Ramesh himself the key witness in the case has expired on 16.01.2022. He further contends that he is in custody since 18.02.2022, the report under Section 173(2) Cr.PC stands filed and none of the 13 prosecution witnesses have been examined so far. One other FIR bearing no.396 dated 23.09.2021 under Section 420, 467, 468, 471 IPC and 120-B IPC (added later on) at P.S. Kalanaur, District Rohtak stands registered against the petitioner arising out of same case in which petitioner has been granted bail vide order dated 25.08.2022. He thus prays that the petitioner be granted the concession of regular bail.

The Counsel for the State on the other hand does not dispute the factual position as narrated herein above. He however contends that the serious nature of the allegations do not entitle the petitioner to the grant of bail.

I have heard counsel for both the sides at length.

Admittedly, the petitioner is in custody since 18.02.2022. The investigation stands completed and none of 13 prosecution witnesses have

been examined so far. The case is triable by the court of a Magistrate and this Court in case bearing **CRM-M-24033-2021(O&M)** titled as **Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab** Decided on **31.08.2022** has held that in cases triable by the Magistrate unless there are serious allegations of accused absconding from trial, or tampering with the evidence, bail should be only declined in exceptional circumstances.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner-**Gulshan Kumar** son of Sh. Kharaiti Lal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 21, 2022
Vinay

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