

(215) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30060-2022

Date of Decision: 27.10.2022

MEHMA SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rishabh Gupta, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

Mr. R.S. Bains, Sr. Advocate with
Mr. Amarjeet, Advocate for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.135 dated 22.03.2022 (Annexure P-1) registered under Sections 420, 465, 467, 468, 471, 482, 120-B of IPC, 1860 at Police Station Sohana, SAS Nagar, Punjab.

2. The present FIR came to be registered with the allegations that one Sanjeev Kumar son of Jarnail Kumar had fraudulently prepared a GPA of plot No.88, Sector-80, SAS Nagar, Mohali of Hindustan Steelworks and Construction Pvt. Ltd. in his name by affixing fake stamps and signatures of the officials of the aforesaid company after which he in connivance with Amit Kapoor and Rahul Ramesh Sood entered into an agreement to sell of the aforesaid plot with the complainant and obtained three cheques worth Rs.1 crore. The said amount had been deposited in a fake bank account of the

company at Moga and was withdrawn by Sanjeev Kumar thereby cheating the complainant to the tune of Rs.1 crore.

During the course of investigation, Rahul Ramesh Sood was arrested on 02.05.2022 and suffered his disclosure statement that Sanjeev Kumar had transferred a sum of Rs.15 lakhs and Rs.1,30,000/- to his account at Panchkula along with Rs.2 lakhs in cash and out of the said amount he had given a sum of Rs.4,50,000/- to the petitioner (Mehma Singh), Rs.4 lakhs to Dilbag Singh and Rs.4 lakhs to Daljit Singh alias Bittu on the asking of Sanjeev Kumar. Certain other facts had also been disclosed in the said statement.

Pursuant thereto, the petitioner was arrested on 06.05.2022 and suffered his disclosure statement admitting his involvement in the commission of the offences.

Sanjeev Kumar was arrested on 26.06.2022 and got recovered a computerised stamp, stamp papers and rubber stamp signatures of different persons. He also disclosed the manner in which the offence was committed and stated that the agreement had been entered into with the complainant- Kulbir Singh Gabba for a sum of Rs.9 crores. He disclosed the names of the persons who had received various amounts from him from time to time.

Similarly, the accused Dilbag Singh arrested on 29.06.2022 and suffered his disclosure statement reiterating the version of Sanjeev Kumar.

Accused Daljit Singh alias Bittu, Amit Kapoor, Gurpreet Singh and Amarjeet Singh could not be arrested and therefore, they were placed in Column No.2 of the report under Section 173 Cr.P.C. and the investigation qua them was pending.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR but only in the disclosure statement of his co-accused. There is absolutely no admissible evidence available against the petitioner. He is not a signatory to the agreement to sell. The amount of Rs.4,50,000/- had never been received by the petitioner and nor was the same recovered from him at the time of his arrest. Since the petitioner was an old man suffering from various ailments, in custody since 10.05.2022 and none of the 10 prosecution witnesses had been examined so far, the further incarceration of the petitioner was not required as the investigation already stands completed.

4. A short reply dated 27.10.2022 has been filed on behalf of the respondent-State by the learned State counsel by way of an affidavit of Harsimran Singh Bal, PPS, Deputy Superintendent of Police (City-II), District SAS Nagar and the same is taken on record. He contends that the petitioner along with his co-accused had cheated the complainant to the tune of Rs.1 crore. As per the allegations, a sum of Rs.4,50,000/- was received by the petitioner. He thus, contends that the seriousness of the allegations do not entitle the petitioner to the grant of regular bail.

5. The learned Senior counsel for the complainant has vehemently opposed the bail application raising similar grounds to those raised by the counsel for the State. He further contends that the petitioner is involved in one other case bearing FIR No.81 dated 07.05.2015 registered under Sections 419, 420, 465, 467, 468, 471, 120-B IPC at Police Station Navi Baradari.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, the petitioner is not named in the FIR but in the disclosure statement of the co-accused. He has been in custody since

10.05.2022 and the report under Section 173 Cr.P.C. already stands presented. None of the 10 prosecution witnesses cited in the list of witnesses have been examined so far and therefore, the trial of the present case is not likely to be concluded in the near future, moreso, when some of the co-accused of the petitioner are absconding. The offences in which the petitioner is involved are exclusively triable by the Court of Magistrate.

8. 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 declined only in exceptional circumstances. In the present case, there is nothing specific which has been pointed out to suggest that the petitioner was likely to abscond from justice or tamper with the evidence in case he is granted the concession of bail.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mehma Singh son of Sohan Singh is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court.

The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

27.10.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No