

CRM-M-35118-2021 (O&M)
Date of decision-02.03.2022

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Mr. Munish Puri, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.15 dated 02.02.2020 under Sections 406, 420 and 120-B Indian Penal Code, 1860 registered at Police Station Sujampur, District Pathankot, who is in custody since his arrest on 20.07.2021.

The contents of the FIR as noticed by the learned Additional Sessions Judge, Pathankot in his order dated 05.08.2021 are as under:-

“Brief facts of the case are that the FIR was registered on the statement of complainant Onkar Singh that his father was serving in the Army and saved the money with the difficulties and one Varinder Kumar entered into an agreement for the sale of two shops no.B12/198 and B12/199 for the consideration amount of Rs.22 lakhs. The date of execution of the sale deed was fixed for 04.05.2018, which was extended. Later on, it was found that the said shops were pledged with the Hindu Cooperative

Bank, Sujanpur. The investigation was initiated and it was found that there was agreement to sell between father of complainant and Varinder Kumar but the shops were pledged with the bank and the loan of Rs. 23,21, 811/- was sanctioned. The offence was made out under Sections 406, 420, 120-B IPC.”

Learned counsel for the petitioner has argued that as per the allegations, petitioner executed an agreement to sell in favour of complainant's father, but the said property was already mortgaged with the Bank and dispute between the parties is purely of civil nature. According to him, no suit for specific performance of the agreement to sell has been filed by either complainant's father (now deceased) or his legal representatives as the said agreement is not in existence. According to him, investigation of the case is complete, therefore, further custody of the petitioner may not be necessary. He prays for bail.

On the other hand, learned State counsel assisted by ASI Naresh Kumar, while opposing the prayer does not dispute this fact that the investigation of the case is complete and final report stands filed on 15.09.2021 and charges are yet to be framed. He on instructions further submits that the case is now fixed for 11.03.2022 before the trial Court for framing of charges.

Learned counsel for the complainant has argued that the said instrument has been lost, therefore, no civil litigation is pending between the parties in that regard.

Considering the above background, petitioner's custody and

the fact that the charges are yet to be framed, this Court is of the opinion that the conclusion of trial is likely to consume considerable time, therefore, further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 20.07.2021.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned/Duty Magistrate.

The petition is allowed.

02.03.2022

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No