

213

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

CRM-M-40580-2021

Date of Decision: 04.03.2022

Vinod Garg

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Namit Khurana, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, DAG, Haryana.

Mr. Deepak Basatia, Advocate,
for the complainant.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.217 dated 27.03.2021, under Sections 420, 419, 406, 467, 468, 471 & 120-B of the IPC, registered at Police Station City Yamuna Nagar, District Yamuna Nagar.

Learned counsel for the petitioner has submitted that the petitioner was remained in custody from 16.07.2021 to 14.10.2021, when he was granted interim bail by this Court in view of his medical condition, since he was required to undergo surgery because a tumor was detected in his head and thereafter, he was to be treated from a Super Specialty Hospital

pertaining to surgery and therefore, his bail was also extended by this Court. He further submitted that since the medical reports of the petitioner was not proper and suitable for conducting surgery, therefore, no surgery was conducted on the head of the petitioner and he started taking homeopathy medicine and on the basis of which, his medical condition is improved. He also submitted that the petitioner is still on the medication and is not medically fit, but is suffering from tumor in his head. Learned counsel further submitted that in the present case the allegations against the petitioner were that he along with another co-accused, namely, Ankur Kumar had prepared a forged Will of one Jaikant Jindal and on the basis of the Will, he had applied to the concerned Authority for the mutation/transfer of the property. He also submitted that about 4-5 months prior to the lodging of the present FIR, the petitioner had even filed a civil suit for declaration pertaining to the aforesaid Will because the complainant and some other persons were also claiming the property. He further submitted that the complainants are the brother and sister of the deceased Jaikant Jindal and there was a dispute *inter se* between them and therefore, the petitioner had filed a civil suit and so far as the present FIR is concerned, the same was an abuse of the process of law. He also submitted that be that as it may, the investigation of the present case has already been completed and Challan has also been presented before the competent Court and the matter is now fixed for consideration of framing of Charges. No useful purpose will be served in case the petitioner is further kept in custody especially in view of the medical condition of the petitioner. Learned Counsel has further submitted that although there are some other FIRs

lodged against the petitioner, but in some of those cases, he has since been acquitted and in some of the cases he is an undertrial, and therefore, pendency of the other cases cannot become a ground for denial of the bail to the petitioner in the facts and circumstances of the present case.

On the other hand, Mr. Naveen S. Panwar, learned DAG, Haryana, has stated that an affidavit was filed by the Deputy Superintendent of Police, Radaur, District Yamuna Nagar in the present case and while referring to the aforesaid affidavit, he submitted that the petitioner was earlier involved in number of cases, in one case under Sections 379, 411, 420, 467, 468, 471 & 473 of the IPC in FIR No.150 dated 16.05.2012, there were allegations against the petitioner for committing theft of a bike and forging of registration certificate. However, the petitioner has since been acquitted in that case on 19.01.2019. In another case, which was also pertaining to theft in FIR No.152, dated 19.05.2012, the same is still pending before the Court of JMIC, Yamuna Nagar at Jagadhri. In another case pertaining to Sections 406 & 420 of the IPC, Challan has still not been presented in that case although the FIR was registered on 01.01.2020, which is more than 2 years ago. There were some other cases against the petitioner pertaining to Section 138 of the N.I. Act in which the petitioner has been acquitted by the JMIC, Yamuna Nagar. Learned State Counsel has further submitted that although the present case is based upon documentary evidence but the petitioner does not deserve the concession of bail since the subject matter of present case is serious in nature.

Mr. Deepak Basatia, Advocate has also appeared on behalf of the complainant and has opposed the grant of regular bail to the petitioner

on the ground that the petitioner has made a cheating by forging a Will and in fact the complainants, who are the brother and sister of the deceased were lawful legal heirs of the deceased and therefore, prejudice has been caused to the complainant when the petitioner has forged a Will along with other co-accused.

I have heard the learned counsel for the parties.

The petitioner has remained in custody from 16.07.2021 till 14.10.2021 and he was granted interim bail by this Court on medical grounds. Investigation of the case has been completed by the Police and thereafter, Challan has also been presented and now the matter is fixed for considering framing of charges. The petitioner had filed a civil suit for declaration pertaining to the Will, which is the subject matter of the present FIR and the said civil suit is still pending. So far as the pendency of the other cases against the petitioner is concerned, in some of the cases, he has been acquitted and the other cases are still pending. The petitioner was granted interim bail earlier on the ground that a tumor was detected in his head and he, therefore, wanted to get his treatment from a Super Specialty Hospital and as per learned counsel for the petitioner, surgery could not be conducted because his health parameters were not normal, and thereafter, he started taking homeopathy treatment.

The investigation of the present case has already been completed and the case is based upon the documentary evidence coupled with the fact that the subject matter pertaining to the Will has been challenged by the petitioner by way of civil suit which is still pending. In the facts and circumstances of the present case, the pendency of other cases

against the petitioner cannot become a ground for denial of his bail. The medical condition of the petitioner would also be a factor to be considered in the present case. Apart from this, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice. Even in the affidavit filed by the State in the present, there is nothing to suggest that the State has any apprehension that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice. The trial of the case may take long time and therefore, considering the totality of the circumstances of the present case, this Court deems it fit and proper to grant bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

04.03.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |