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

203

**CRM-M-41815-2021
Date of decision: 09.02.2022**

MOHD. KHUSHAL .....Petitioner

Versus

STATE OF HARYANA AND ANR. .....Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Bipin Ghai, Senior Advocate
with Mr. Paras Talwar, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana
for the respondent-State.

Mr. Pardeep Bajaj, Advocate
for the complainant.

****

<u>SANT PARKASH, J. (ORAL)</u>

The case has been taken up for hearing through video conferencing.

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner, in case, FIR No. 32 dated 05.03.2021 registered under Sections 419, 420, 467, 468, 471, 406 and 120-B of the Indian Penal Code, 1860 at Police Station City Nuh, District Mewat/Nuh.

The present FIR has been lodged on complaint made by Sakir Hussain on the averments that in the month of January, 2021, accused Muneer along with his son Mustakim and son-in-law Khushal approached him (complainant) for sale of 17 Kanals and 6 Marlas of land in Mauja Rahadi. A deal was finalized for sale and purchase of the said property and date was fixed for execution of the sale deed. On

22.01.2021, all the above said accused persons again approached the complainant and informed that Muneer has executed GPA regarding the said property in favour of his wife Hasina and she will get the sale deed executed. On 28.01.2021, the above said accused persons along with two other ladies identified as Hasina (mother-in-law of Khushal) and Meena (wife of Khushal) met the complainant. Khushal and Mustakim handed over the original GPA to the complainant and the draft sale deed was prepared which was thumb marked by Hasina in her capacity as seller while the petitioner-accused appended his signatures as an attesting witness to the sale deed. On execution of the sale deed, the complainant handed over a cheque amounting to Rs.43,30,750/- in the name of Muneer and the said amount was transferred in the bank account of Muneer. The complainant later came to know that actually the sale deed was got executed by the accused persons through Khatuni wife of Ash Mohd., wo impersonated Hasina before the Sub Registrar and in this manner the complainant was defrauded by the accused persons and a huge amount of Rs. 43,30,750/- was transferred illegally in the bank account of Muneer.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Sudhir Taneja, HPS, Deputy Superintendent of Police, HQ, District Nuh.

The petition has also been opposed by learned Counsel for the complainant in terms of reply filed on behalf of respondent No.2/complainant today through special messenger which is taken on record.

I have heard learned Counsel for the parties and gone through the case file.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. No role has been attributed to the petitioner. The alleged documents were neither prepared by the petitioner nor it bears his signatures. The entire sale consideration amount which was transferred in the bank account of Muneer has been freezed by the Investigating Agency. The petitioner was only property dealer in the said deal and was not aware about the fraud being committed by the co-accused. The petitioner is in custody since 12.04.2021. Investigation in the case is complete and challan has already been filed. Nothing is to be recovered from the possession of the petitioner. The trial is likely to take long time. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel in terms of reply filed has submitted that the allegations against the petitioner are serious in nature. Remaining Co-accused in the present case are yet to be joined in the investigation and they are currently absconding to evade police arrest. The petitioner, if granted bail may influence the witnesses and tamper with the prosecution evidence. Therefore, the present petition for grant of regular bail may be dismissed.

Learned Counsel for the complainant in terms of reply filed has submitted that the petitioner along with his co-accused have defrauded the complainant and the petitioner has actively participated in the crime. Except the petitioner, all the other accused person are at large and none has been arrested till date. The petitioner, if set at liberty would put a huge dent in the case of the complainant and would also try to run away from the process of law. Therefore, the petition for grant of regular bail to the petitioner may be dismissed.

Having considered the facts and circumstances of the case, the petitioner is alleged only to be an attesting witness of the sale deed, the account of Muneer to whom the amount to the tune of Rs.43,30,750/- was allegedly transferred has already been seized/freezed by the investigating agency, non arrest of the other co-accused being no valid ground to deny bail, the petitioner being in custody since 09.04.2021, challan has already been presented and the fact that the trial is likely to take long time but without expressing any opinion on the merits of case, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(SANT PARKASH)
JUDGE

09.02.2022
kavneet singh

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