

217

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36660-2019

Date of decision : 21.03.2022

Rajinder Kumar Jain

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

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

Mr. V.G.Jauhar, Senior DAG, Punjab.

Mr. Jasraj Singh, 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.156 dated 06.10.2018 under Sections 406, 420 and 120-B Indian Penal Code, 1860 registered at Police Station City, District Hoshiarpur, who is in custody since his arrest on 30.07.2019.

The allegations as noticed by learned Additional Sessions Judge, Hoshiarpur in his order dated 14.08.2019 are as under:-

“As per case, complainant Ashok Kumar Jain brother of applicant Rajinder Kumar Jain had moved an application to Inspectorate General of Police, Jalandhar dated 26.4.2018 stating that there is one firm namely Dada Motors having two branches, one at Hoshiarpur and other at Dasuya. There was a partnership deed and there were four partners. Harsh Vardhan Jain and his wife Anita were looking after the

business at Hoshiarpur, whereas Rajinder Kumar Jain and his wife Manju Jain were looking after the business at Dasuya. Complainant Ashok Kumar Jain had stood as guarantor and mortgaged his house measuring 16 Marlas 164 square feet situated at Hoshiarpur for the loan taken by Rajinder Kumar Jain and his wife. In this regard, a compromise was effected on 9.12.2015 that Rajinder Kumar Jain will mortgage his own property with the bank up to 9.6.2016 and will get the house of complainant released. In case of failure on the part of Rajinder Kumar Jain, he will execute sale deed of his house situated at Village Bahadurpur in favour of Ashok Kumar Jain. The date of sale deed was extended up to 9.8.2016. The partition had taken place between the parties on 2.9.2016 but still Rajinder Kumar Jain did not get the property of Ashok Kumar Jain, complainant released by mortgaging his own property. He rather transferred his property at Dasuya in the name of his son Deepak Jain. He mortgaged his property situated at Bahadurpur with Indusind Bank and took a loan of Rs.1,56,000,00/-. The bank had issued notice to Dada Motors Dasuya and complainant had to deposit an amount of Rs.1,33,00000/- to get the loan cleared and to save his property. Rajinder Kumar Jain, his wife Manju Jain and son Deepak Jain in connivance with each other have misappropriated the stocks of Dada Motors, Dasuya and have cheated the complainant Ashok Kumar Jain.”

Learned counsel for the petitioner has argued that dispute between the brothers has taken an ugly turn and the complainant has implicated the petitioner through FIR No.156 dated 06.10.2018 (Annexure P-1) and pursuant to that, he was taken in custody on 29.07.2019. He submits that on 24.01.2020, this Court extended the concession of interim regular bail to the petitioner and by that time, the investigation in the case was over as final report stood filed. He submits that pursuant to the above order dated 24.01.2020, the petitioner is regularly attending the trial proceedings and has not misused the concession. He prays for regular bail.

Learned counsel for the complainant does not dispute this

fact that investigation of the case was over, when the petitioner was released on interim regular bail. According to him, the petitioner alienated the property and violated the condition of bail. However, it is conceded by him that no application for cancellation of bail was moved by the complainant.

On the other hand, learned State counsel assisted by ASI Gagan Singh has fairly stated that the concession granted by this Court was never misused by the petitioner. He further on instructions states that out of total nine prosecution witnesses, none has been examined so far and the case is now fixed for 04.04.2022 for recording prosecution evidence.

At this stage, learned counsel for petitioner has argued that the property was already mortgaged with the bank and in order to recover the debt, the creditor bank initiated proceedings under SARFAESI Act and no property has been sold by the petitioner/accused.

Considering the above background, nature of the offences and the fact that the investigation is complete, the prayer made in this petition on his behalf is accepted, as the trial is likely to take considerable time to conclude.

Resultantly, the petition is allowed and petitioner's prayer for grant of regular bail is accepted. It is further ordered that the

petitioner shall continue to remain on bail bonds and surety bonds already furnished by him before the trial Court.

(MANOJ BAJAJ)
JUDGE

21.03.2022
vanita

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