

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36689-2019

DATE OF DECISION: MAY 11, 2022

NIRBHAY SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. ADITYA SANGHI, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEEP PARMAR, DAG, HARYANA.
MR. P.K. GANGA, ADVOCATE FOR COMPLAINANT.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.0044 dated 20.2.2019, under Section 406, 420, 467, 468, 471, 506 IPC, Police Station City Mandi Dabwali, District Sirsa, who is in custody since his arrest on 17.6.2019.

Learned counsel for the petitioner has argued that as per allegations by complainant Lakhwinder Singh, petitioner Nirbhay Singh executed agreement to sell dated 9.4.2018 for sale of land belonging to his brother Gurdeep Singh on the strength of General Power of Attorney No.37 dated 25.7.2017 and received a sum of ₹45 lakhs as earnest money against total sale consideration of ₹71 lakhs and instead of executing the sale deed upto 30.6.2018, he executed another agreement to sell in favour of Parshant Berad son of Rajender Kumar and later on, the land in question was sold through sale deed No.2569 dated 25.9.2018 in favour of Smt. Silki Garg wife of Sh. Sunil Kumar and therefore, has caused wrongful loss to the complainant. He has argued that the dispute between the parties is purely of

civil nature and suit for specific performance of the agreement dated 9.4.2018 filed by the complainant is pending before the civil Court at Dabwali and therefore, further custody of the petitioner may not be necessary. He prays for bail.

The prayer is opposed by learned counsel for the complainant who has argued that the petitioner induced the complainant for purchase of land who was also aware that the complainant had recently retired and has received his retiral benefits. According to him, the petitioner had dishonest intentions from the very beginning, who has made wrongful gain by cheating the complainant. However, it is not disputed by learned counsel that civil suit filed by the complainant is pending and according to him, it would adjudicate upon the rights of the parties, but as far as the penal provisions are concerned, the case been rightly registered for prosecution of petitioner and other accused. He has further argued that the petitioner utilized the money to send his children abroad and misappropriated the same and later on alienated the land to the third party. He prays for dismissal of the petition.

Learned State counsel assisted by ASI Ishwar Singh while opposing the aforesaid prayer has argued that after completion of investigation, the final report was submitted and after commencement of trial, the prosecution has examined all the witnesses and the case is now coming up for final hearing on 18.5.2022.

At this stage, learned counsel for the petitioner has pointed out that the complainant had filed an application under Section 319 Cr.P.C. for summoning of additional accused and though the same has been dismissed,

but he has further challenged the said order.

After hearing learned counsel for the parties and considering the nature of offence as well as the fact that the material witnesses have already been examined, further detention of the petitioner may not be necessary for any justifiable reason.

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

The petition is allowed.

May 11, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No