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

1. CRM-M-44504-2022 (O&M)
Date of decision : 17.11.2022

Manoj Kumar

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-40528-2022 (O&M)
Date of decision : 17.11.2022

Amarjeet @ Amarjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Chetan Mittal, Sr. Advocate with
Mr. G.S. Madaan, Advocate and
Mr. Mayank Aggarwal, Advocate for the petitioner.
(In CRM-M-44504-2022)

Mr. Gaurav Partap S. Pathania, Advocate for the petitioner
(In CRM-M-40528-2022)

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Onkar Singh Batalavi, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

By this common order, two petitions bearing No.CRM-M Nos.44504 and 40528 of 2022 shall stand disposed of.

First petition i.e. CRM-M-44504-2022 has been filed by Manoj Kumar and second petition i.e. CRM-M-40528-2022 has been filed by Amarjeet @ Amarjit Singh for grant of regular bail in FIR No.12 dated 24.01.2022 registered under Sections 420, 465, 466, 467, 468, 471, 120-B of Indian Penal Code, 1860 at Police Station Sujampur, District Pathankot.

Learned Senior Counsel for the petitioner-Manoj Kumar and learned counsel for the petitioner-Amarjeet @ Amarjit Singh have jointly submitted that the present case has civil trappings. It is further submitted that initially, one FIR No.326 dated 22.10.2017 was registered by the petitioner-Manoj Kumar against Suresh Mahajan and Shweta Mahajan who belong to the complainant party (as far as the present FIR is concerned). It is contended that the complaint dated 26.10.2017 (Annexure P-3 in CRM-M-44504-2022) was given by Shweta Gupta (Shweta Mahajan) and Suresh Mahajan to the Senior Superintendent of Police, Pathankot, in which, allegations similar to the allegations which have been levelled in the present FIR were made. It is further contended that subsequent to the registration of FIR No.326 and giving of the aforesaid complaint, compromise deed dated 20.03.2018 (Annexure P-4 in CRM-M-44504-2022) was entered into between the petitioner-Manoj Kumar and his wife Renu Sharma and Suresh Mahajan and Shweta Gupta (Shweta Mahajan) and as per the said compromise, it had been decided between both the parties that the petitioner-Manoj Kumar would not pursue his FIR No.326 and Suresh Mahajan and Shweta Gupta would not pursue their complaint. It is argued

that in compliance of the said compromise, the petitioner-Manoj Kumar did not pursue the FIR and accordingly, cancellation report was submitted in FIR No.326. It is further argued that in violation of the said compromise, said Suresh Mahajan got registered FIR No.794 dated 17.11.2019 (Annexure P-8 in CRM-M-44504-2022) at Police Station Samaipur Badli, District Outer North under Section 381 of IPC, in which, it had been alleged by him that Manager Sulkhan Singh had taken the original papers of his property in Delhi as well as property in Punjab which is the subject matter of the dispute in the present FIR. It is also submitted that in the proceedings in the said FIR, on the basis of further investigation, the petitioner was arrested and enquiry was conducted with respect to the sale deed dated 01.02.2016 and after a detailed enquiry was conducted on the aspect of impersonation with respect to the sale deed dated 01.02.2016, it was found that there was no material against the present petitioner-Manoj Kumar and his wife Renu Sharma and accordingly, cancellation report dated 16.03.2020 was submitted. It is also contended that after the same, the complainant got the present FIR registered on 24.01.2022 i.e. FIR No.12 at Police Station Sujanpur, District Pathankot, on the same allegations, regarding which, the complaint dated 26.10.2017 had been filed and regarding which, in FIR No.794 of 2019 (Annexure P-8), the enquiry had been conducted. It is also argued that although, as per the FIR, there are allegations which have been levelled to the effect that wife of the petitioner i.e. Renu Sharma had impersonated Shweta Mahajan and had sold the land in question measuring 17.5 marlas situated at Village Mamun, District Pathankot but the signatures on the sale deed dated 01.02.2016 were of

Shweta Gupta and the said signatures had not been denied by Shweta Gupta. It is stated that Suresh Mahajan had filed civil suit dated 15.10.2020 against the present petitioner and other persons challenging certain sale deeds but the aforesaid sale deed dated 01.02.2016 had not been challenged in the same. It is further stated that the petitioner-Manoj Kumar is in custody since 15.04.2022 and petitioner-Amarjeet @ Amarjit Singh is in custody since 25.01.2022 and the investigation is complete and challan has been presented and there are 14 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further contended that the entire case is based on documents and thus, no useful purpose would be served by keeping the petitioners in further incarceration.

Learned counsel for the petitioner-Amarjeet @ Amarjit Singh has submitted that the petitioner-Amarjeet @ Amarjit Singh had earlier filed regular bail application which was dismissed as withdrawn on 04.05.2022 at that stage and even subsequent to the same, in spite of a lapse of more than six months, no witness has been examined and the trial has not made much progress, thus, entitling him to file the present second application for regular bail.

On the other hand, learned State Counsel and learned counsel for the complainant have opposed the present petition for grant of regular bail to the petitioners and have submitted that Shweta Mahajan was the owner of the land measuring 17.5 marlas in Village Mamun at Pathankot and Renu Sharma, wife of the petitioner-Manoj Kumar, had impersonated her and had got the sale deed dated 01.02.2016 executed in

favour of Neelam Kumari. It is further submitted that Shweta Mahajan had also filed a civil suit i.e. Civil Suit No.1125 of 2021, in which, the present sale deed had been challenged and the said civil suit is pending. It is contended that both the petitioners are involved in one more case.

Learned counsel for the State and complainant have also submitted that the petitioner-Amarjeet @ Amarjit Singh was the attesting witness and Namberdar at the time of execution of the sale deed dated 01.02.2016, in which, he had attested the particulars of Shweta Mahajan, who had been impersonated.

Learned Senior Counsel for the petitioner-Manoj Kumar and learned counsel for the petitioner-Amarjeet @ Amarjit Singh, in rebuttal have submitted that the abovesaid other case had been lodged by Suresh Mahajan (husband of the complainant in the present case) and has relied upon the judgment of Hon'ble Supreme Court in **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”**, reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard the learned counsel for the parties and has perused the paper book.

It is the case of the complainant that Civil Suit No.1125 of 2021 has been filed by Shweta Mahajan, who is the complainant in the present case, challenging the sale deed dated 01.02.2016. The question as to whether the said sale deed has been duly executed or not and also as to whether Shweta Gupta (Shweta Mahajan) had signed the same or not, would be finally adjudicated in the said civil suit. It is the case of the petitioners that earlier FIR No.326 dated 22.10.2017 was got registered at Police Station Nurpur, Kangra, Himachal Pradesh by the petitioner-Manoj Kumar against Shweta Mahajan and Suresh Mahajan and complaint dated 26.10.2017 (Annexure P-3 in CRM-M-44504-2022) was also filed by the present complainant as well as her husband levelling the same allegations as have been levelled in the present FIR and subsequent to the same, the matter had been compromised vide compromise deed dated 20.03.2018 (Annexure P-4 in CRM-M-44504-2022) and both the parties had decided not to pursue their respective complaint/FIR and on account of same, in FIR No.326 of 2017, the cancellation report had been submitted. It is further their case that in violation of the said compromise, the present FIR has been registered. The petitioner-Manoj Kumar is in custody since 15.04.2022 and petitioner-Amarjeet @ Amarjit Singh is in custody since 25.01.2022 and the investigation is complete and challan has been presented and out of 14 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time. The entire case is based on documents and also has civil trappings and thus, no useful purpose would be served by keeping the petitioners in further incarceration.

Keeping in view the abovesaid facts and circumstances and also in view of law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra), both the petitions are allowed and the petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to them not being required in any other case.

However, it is made clear that in case, any act is done by the petitioners to threaten the complainant or any of the witnesses and in case of non-compliance of abovesaid condition, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

17.11.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No