

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

CRM-M-53557-2021 (O&M)
Reserved on: 05.12.2022
Pronounced on: 08.12.2022

Khalendra Singh Kadyan ...Petitioner

Versus

Union Territory, ChandigarhRespondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rupinder Singh Khosla, Sr.Advocate with
Mr. Sarvesh Malik, Advocate, for the petitioner.

Mr. Rajeev Anand, APP, U.T. Chandigarh.

HARNARESH SINGH GILL, J.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.63 dated 02.03.2021 under Sections 452, 331, 344, 365, 386, 419, 420, 465, 467, 468, 471, 473, 474, 477, 120-B IPC and Sections 7 and 13(1)(2) of the Prevention of Corruption Act, 1988 (added later on), registered at Police Station Sector-39, Chandigarh.

Learned Senior Counsel for the petitioner has contended that the petitioner has falsely been implicated in the present case; that the petitioner did not play any role in the commission of offences like trespassing and abduction of Rahul Mehta; that in the FIR, the petitioner has not been attributed any role; that the GPA was actually executed by Rahul Mehta in favour of the petitioner and one Arvind Singla, and that the petitioner is a bonafide investor in the property and 67% share in the house in question had been purchased by the petitioner,

whereas 33% share by one Arvind Singla. It is the case of the prosecution that Rahul Mehta was impersonated by one Gurpreet Singh, and in that eventuality, the criminal liability, if any, would arise only against those persons, who had wrongly identified the said alleged impersonator i.e. Gurpreet Singh, but surprisingly, they have not been arraigned as accused in the present case.

Learned Senior Counsel has further contended that there are two sets of allegations in the FIR; that the petitioner has no concern with the first set of allegations regarding wrongful confinement, criminal trespass and abduction of Rahul Mehta and that so far as the second set of allegations is concerned, it is to be seen whether two documents, i.e. GPA executed in the year 2017 in favour of the petitioner and one Arvind Singla and him being the witness to the sale deed registered in the year 2019, were actuated by fraud or not. The learned Senior Counsel would argue that the GPA was validly executed and the petitioner became witness in the sale deed executed in the year 2019 on the basis of the said GPA, which was a necessary corollary and, thus, even the second set of allegations, does not indict the petitioner in any manner. He has further contended that co-accused, Manish Gupta, Saurabh Gupta, Satpal Dagar and Arvind Singla have since been granted the concession of regular bail by the Coordinate Benches, vide orders dated 19.05.2021, 23.11.2021 and 15.12.2021. Moreover, co-accused Daljit Singh @ Rubbal has been granted the concession of anticipatory bail by learned Addl. Sessions Judge, Chandigarh, vide order dated 06.07.2021. The petitioner has

been in custody since 25.06.2021; post presentation of challan, the charges were framed and the case is at the stage of prosecution evidence.

On the other while, learned APP, U.T. Chandigarh, has contended that the petitioner was a part of criminal conspiracy to misappropriate House No. 340, Sector 37-A, Chandigarh; that the power of attorney dated 27.04.2017 was got executed from Rahul Mehta in respect of the said house, by taking advantage of the fact that his parents had expired and he was in a weak state of mind; that in the presence of the petitioner, Rahul Mehta was impersonated by co-accused Gupreet Singh for the cancellation of GPA dated 27.04.2017 and that the petitioner had forged certain documents to receive the ill-gotten money.

Learned A.P.P. has further submitted that Rahul Mehta, is a vulnerable witness; that the defence wants to term the said witness as mentally unstable and in this regard, an application moved by the defence, was also declined by the trial Court, and that the deposition of Rahul Mehta, is yet to be recorded by the trial Court and incase, the petitioner is released on bail, he would make all out efforts to either win over or tamper with the evidence.

I have heard the learned counsel for the parties.

It is conceded position that the petitioner got 67% share in the house in question on the basis of the Power of Attorney dated 27.04.2017 and the remaining 33% by Arvind Singla. Said Arvind Singla, has already been granted bail by the Coordinate Bench. The petitioner pleads his act in the alleged

transactions on the basis of the said Power of Attorney. He does not deny the receipt of the money as a result of the sale of the house in question in favour of Saurabh Gupta and Manish Gupta.

The petitioner has been in custody since 25.06.2021. Other co-accused, namely, Manish Gupta, Saurabh Gupta, Satpal Dagar and Arvind Singla, have already been granted the concession of regular bail. Even, Rajdeep Singh, co-accused, has also been granted the concession of regular bail vide order dated 28.09.2022 passed by this Court. Though the learned APP has vehemently opposed the bail on the ground that Rahul Mehta is yet to be examined in the Court, yet the fact remains that he said Rahul Mehta is stated to be in police protection.

As the case is already at the stage of prosecution evidence, no further custodial interrogation of the petitioner is required. The other co-accused, as noticed above, have since been granted the concession of bail. The trial may take long time to conclude.

In view of the above, without expressing any opinion on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing surety/bail bonds to the satisfaction of the trial Court.

08.12.2022
Praveen/ds

(HARNARESH SINGH GILL)
JUDGE

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