

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-53598-2021 (O&M)
Date of Decision:- 30.5.2022

Naresh Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Suba S. Kaushik, Advocate, with
Mr. Virender Kumar, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Vivek Goyal, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

CRM-20707-2022

In view of the reasons mentioned in the application, the same is allowed as prayed for and Annexures P-5 and P-6 are taken on record subject to all exceptions.

CRM-M-53598-2021 (O&M)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.67, dated 23.4.2021, Police Station Radaur, Yamuna Nagar, under Sections 406, 420, 506 IPC.

2. The allegations, in nutshell, are that he had defrauded the complainant of an amount of Rs.1 crore by way of executing agreement to sell land in favour of complainant which was not honoured and infact the accused had already entered into two other identical agreements with other persons, in respect of which civil suits were pending before he had entered into an agreement with the complainant.
3. Learned counsel for the petitioner has submitted that even if all the allegations, as levelled in the FIR are taken to be correct, the same at best can constitute a civil liability. It has further been submitted that in any case the petitioner in order to prove his bonafides had already deposited an amount of Rs.15 lakhs with the Court below which stands invested in FDR.
4. Learned counsel for the petitioner further submitted that the petitioner in order to further establish his bonafides, is willing to deposit another amount of Rs.15 lakhs within a period of 45 days from today and that he shall try to deposit Rs.5 lakhs after every 15 days from today onwards.
5. On the other hand, learned State counsel assisted by learned counsel for the complainant has submitted that the very fact that the petitioner had earlier entered into agreements with two different people before entering into another agreement to sell land with the complainant itself goes to show that the intention of the petitioner right from the very inception of the agreement was to defraud him. It has further been submitted that out of Rs.1 crore received by the petitioner, an

amount of Rs.66 lakhs was transferred by way of bank transaction while the remaining amount was paid by way of cash and that the petitioner cannot dispute the receipt of amount through bank transaction in any case. Learned State counsel has informed that the petitioner happens to be involved in two other identical cases. It has also been informed that the petitioner as on date has been behind bars since the last more than 8 months and that although charges have been framed, but none out of the cited 13 PWs has been examined till date.

6. I have considered rival submissions addressed before this Court.
7. There are certainly categoric and unambiguous allegations against the petitioner. The receipt of amount particularly the component of Rs.66 lakhs which had received through bank transaction cannot possibly be denied by the petitioner. It is also borne out that two civil suits are pending against the petitioner, filed by some other persons which also pertain to specific performance of similar agreements. However, this Court cannot loose sight of the fact that the petitioner has been behind bars for a substantial period of 8 months. Conclusion of trial is likely to take time. Bearing in mind all the facts and circumstances in mind, the petition is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned..
8. The petitioner shall remain bound by the offer made before this Court today and shall deposit Rs.15 lakhs within the next 45 days. The said

amount may be deposited in three installments of Rs.5 lakhs each, which may be deposited after every 15 days from today onwards.

9. Upon such amounts being deposited, the trial Court/Illaqa Magistrate shall get the same invested in some FDR in Nationalized Bank with the specific direction to the Bank Manager concerned not to entertain any request for encashment except an order of the Court. In case, the petitioner is found innocent and is acquitted and such acquittal attains finality, he shall be entitled to the proceeds of the FDRs. However, in case he is found guilty and his conviction attains finality, it is the complainant who shall be entitled to the proceeds of such FDRs.
10. It is further clarified that in case the aforesaid amount is not deposited, it shall be open to the complainant to move an application for cancellation of bail.

30.5.2022

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No