

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5248-2023
Reserved on:02.08.2023
Decided on: 19.10.2023

Avtar Singh ...Petitioner

Versus

State of Punjab and another ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sant Pal Singh Sidhu, Advocate for the petitioner.

Mr. Aman Pal, Addl. A.G.Punjab

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
79	16.07.2020	City Zira, District Ferozepur	406, 420, 467, 468, 471, 120-B IPC

1. The petitioner incarcerated, in the FIR captioned above, had come up before this Court under Section 439 CrPC seeking regular bail, which bears the date of filing as 27.01.2023.
2. This petition was listed for the first time on 08.02.2023. Vide order dated 18.05.2023, this Court had directed the petitioner to declare his assets. On 07.07.2023, counsel for the petitioner submitted that they had complied with the previous order, and the interim order was continued till date.
3. As per the State, the petitioner, who was arrested on 02.09.2022, is one of the kingpins of the alleged crime. State counsel further submits that if the petitioner is released on bail, he would undoubtedly hamper the investigation. The petitioner was the Director of most of the Companies. As per the custody certificate dated 26.07.2023, in the present case, the petitioner’s total custody was just 08 months and 08 days, i.e., 258 days.
4. A reference be made to reply dated 07.07.2023 filed by DySP. Para 20 of the said reply reads as follows: -

“20 That the allegations against the accused petitioner are that accused petitioner Avtar Singh son of Basawa and co-accused Harbjajan Singh son of Basawa Singh had sold land measuring 79 Bighas 02 Biswas in village Khalawar vide sale deed No. 562 dated 20.10.2019 for consideration of Rs 2.5 Crore. This land was actually purchased by PACL Ltd in the name of the accused petitioner Avtar Singh and co-accused Harbhajan Singh. Apart from this, land measuring 53 Bigha 3 Biswa situated in village Landiali, District SAS Nagar was purchased by PACL

Ltd. in the name of petitioner Avtar Singh and co-accused Kulwinder Singh and one of the original sale deed of this land was seized by CBI during investigation of its case No. RC.BD1/2014/E/004/CBI/BS&FC/ New Delhi. Hon'ble Supreme Court of India has passed ordered restraining alienation on properties belonging to PACL Ltd., its associate/ group companies, directors/ promoters, employees/ agents and other concerned individuals, but despite having knowledge of the same, petitioner Avtar Singh and Kulwinder Singh executed a General Power of Attorney in favour of Iqbal Singh son of Labh Singh and sold this land to Jaswinder Kaur wife of Gurmeet Singh resident of village Bakarpur for consideration of Rs. 2,21,45,900/-. The accused Avtar Singh has been arrested on 02.09 2022".

5 A perusal of the reply reveals that PACL had purchased 132 Bighas land in the name of Avtar Singh. Despite an order passed by Hon'ble the Supreme Court not to alienate the property, they had sold 79 bighas 02 Biswas vide sale deed No.562 dated 20.10.2019 for a consideration of Rs.2.5 crores.

6. Counsel for the State argues that consideration of Rs.2.5 crores was underpriced, and the real money was much more.

7. We all know the ground realities that some corrupt government employees purchase under-valued properties or properties with disputes qua possession or when its possession is with old tenants. They utilize bribe money, black money, and ill-gotten money for purchasing such properties at circle rates or even lower than the circle rates by making the balance payment in cash or gold. After that, these cunning officials also spend their ill-gotten or undeclared money in redeeming or taking back the possession, eventually laundering all the black and illicit money. Despite almost everyone knowing about this practice, this powerful, corrupt cartel did not let this system improve and halt all efforts to bring all property sales with the 'white money.' Taking advantage of such cartels, private people like the petitioner also take enormous benefits of such loopholes and utilize their undeclared income or income from illicit means to purchase these kinds of properties at circle rates, that are times less than the actual market value.

8. There is substance in the argument advanced by the State, that in the present case also, it is apparent that the actual money which would have been taken by sale consideration of 79 bighas of land was not in a remote location and could not have been prime facie sold for a paltry sum of Rs.2.5 crores. However, given the modus operandi mentioned above, since the circle rate appear to have been intentionally kept low, the petitioner also took advantage, and prima facie pocketed the remaining sale consideration. In addition, there was a blanket stay order of Hon'ble the Supreme Court not to alienate the property, and despite that, he did it.

9. The main and primary reason to deny the bail at this stage is that the petitioner was the Director of most companies and is one of the kingpins of the alleged crime. The massive amount of indeed thousands and crores belongs to people who had saved that

money by depriving necessities and without fulfilling the wishes of their children and with a dream to have a house have been butchered. Taking advantage of the lack of governance and supervision by the concerned Government officials, the petitioner took advantage of the loopholes in the system and defrauded poor investors on a massive scale. It is clarified that as and when the trial commences, it will be concluded on top priority.

10. The petitioner’s custody of 08 months and 18 days cannot be considered sufficient for pre-trial incarceration, and he is not entitled to a grant of bail.

11. Given above, the present petition is dismissed. Interim order dated 18.05.2023 and all subsequent extensions are immediately recalled. The bail bonds are cancelled. The petitioner be taken into custody without any delay.

(ANOOP CHITKARA)
JUDGE

19.10.2023
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Whether speaking/reasoned:	Yes
Whether reportable:	No.