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

**Date of Pronouncement: 14.03.2023
CRM-M No.6922 of 2023 (O&M)**

Ramesh Chand Aggarwal

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. P. S. Ahluwalia, Advocate
for the petitioner.

Mr. Gurpreet Singh Shergill, AAG, Punjab.

Mr. Piyush Aggarwal, Advocate
for the complainant.

GURBIR SINGH, J (ORAL)

The prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No.479, dated 03.12.2022, under Sections 406, 420 & 120-B of Indian Penal Code, 1860, registered at Police Station Zirakpur, District SAS Nagar.

The case in question was registered on the basis of complaint made by Amit Kumar. As per the allegations in the FIR, the petitioner entered into an alleged agreement to sell on 31.03.2022 for a sum of

Rs.3,30,00,000/- for selling his property/hotel, but he did not execute the sale deed in favour of the complainant. The petitioner, namely, Ramesh Chand Aggarwal got the NOC from the Bank after clearing the loan with the amount received from the complainant through cheating but he failed to execute the sale deed thereafter.

Learned counsel for the petitioner has argued that both the parties are related to each other. Petitioner is the elder brother of father of the complainant (Taya) as the father of the complainant and petitioners are real brothers. An attempt was made to convert a civil litigation into a criminal dispute. The parties are embroiled in multiple civil cases. In January 2022, the complainant had approached the petitioner for purchase of 50% ownership of the property measuring 1142 square yards situated at Zirakpur-Ambala Highway, i.e., the disputed property. Due to relations of the parties, an oral agreement was arrived at and it was mutually agreed that upon transfer of entire sale consideration, the sale deed would be executed but the complainant failed to transfer the entire sale consideration, therefore, the sale deed could not be executed. The complainant proceeded to illegally take charge of the property and changed the name of the Disputed Property. The petitioner filed a Civil Suit on 14.10.2022. Vide order dated 21.10.2022, *ad interim* directions were issued whereby defendants including complainant were restrained from using the joint property and from changing the nature of the suit property till next date. During the pendency of the Civil Suit, the complainant filed the written statement and pleaded about the existence of the alleged agreement to sell. Since the petitioner had never signed any such document, so an application for production of

original agreement to sell was filed and on 21.12.2022, the defendant produced the original agreement to sell dated 31.03.2022. Remaining 50% of the disputed property was transferred in the name of Usha Garg in good faith but later on, she refused to transfer the property in the name of partnership firm. A civil suit was instituted and learned Court directed the parties to maintain status quo qua alienation and possession of the suit property.

The agreement to sell dated 31.03.2022 is a forged and fabricated document. Value of the property measuring 1142 square yards on the main road of Chandigarh-Ambala cannot be 3,30,00,000/-. The pictures of the property are annexed with the petition.

Learned counsel for the petitioner submits that the petitioner is in custody since 23.12.2022. Challan is already presented and completion of trial will also take a long time. He has relied upon judgment of this Court passed in case “***Maninder Sharma vs. State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab***” CRM-M No.24033 of 2021, decided on 31.08.2022 by the Coordinate Bench of this Court, in which it has been held that after completion of investigation and filing of challan, then denial of bail must be the exception. He further submits that after examining so many judgments on bail, the said order was passed.

Learned counsel for the State has filed status report dated 03.03.2023 by way of an affidavit of Bikramjit Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Zirakpur, District SAS Nagar on behalf of the respondent-State as well as custody certificate of the petitioner today in the Court and the same are taken on record. Copy thereof has been

supplied to the counsel opposite.

It is submitted that the petitioner in conspiracy and connivance with his son after obtaining sum of Rs.3,30,00,000/- from the complainant and defrauded the complainant by not getting the sale deed registered as per the agreement to sell. He has fairly conceded that the petitioner is in custody since 23.12.2022.

Learned counsel for the complainant has opposed the petition and has referred the reply filed by him. He submits that the petitioner had received a notice under Section 13(2) of the Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with Security Interest (Enforcement) Rules, 2002 as amended, as there was default in paying the installments in time and loan account had been declared as non performing assets. The petitioner gave representation to the Bank (Annexure R-2/2) that they are seeking financial aid from their family and friends. The petitioner approached the complainant and offer to sell his share from the hotel as he was having a financial crunch and he was unable to pay the debt. Therefore, the petitioner entered into an agreement to sell dated 31.03.2022 and sum of Rs.3,30,00,000/- was paid to the petitioner. The petitioner paid the said amount to the Bank and got the NOC. The petitioner agreed that the sale deed would be executed within 15 days of receipt of NOC but he failed to execute the sale deed. He further submits that the petitioner had intention to commit cheating from inception and successful in cheating the complainant.

Petitioner filed a false complaint to the police that his signatures were obtained on blank paper but there is no explanation as to

why, sum of Rs.1,21,00,000/- was paid through RTGS to the petitioner. The story propounded by the petitioner is totally false. There are contradictions in the complaint which was sent to the SSP and in the legal notice. The offence of cheating is fully proved and the petitioner is not entitled for bail.

I have heard learned counsel for the parties and going through the material available on record.

In case of *Maninder Sharma (supra)*, learned Coordinate Bench after referring so many authorities on bail, came to the conclusion that it would be contrary to the concept of personal liberty enshrined in the constitution that any person should be punished in respect of any matter upon which he has not yet been convicted or that in the circumstances he should be deprived of his liberty only upon the belief that he will tamper with the witnesses/evidence.

Keeping in view the fact that the challan is already presented, the completion of trial will take a long time, no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ramesh Chand Aggarwal is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned which is at liberty to impose any stringent conditions that it deems appropriate.

Further, the petitioner is directed to surrender his passport before the trial Court or furnish an affidavit in case, he does not possess any

passport.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

14.03.2023
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(GURBIR SINGH)
JUDGE

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