

(216) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10544-2023
Date of Decision: 09.03.2023

GURSATT SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.K. Jain, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.356 dated 11.08.2022 registered under Sections 419, 420, 465, 468, 471, 120-B, 34 IPC at Police Station City Barnala, District Barnala.

2. The brief facts of the case are that Rakesh Kumar got registered the present FIR with the allegations that Arvind Thakur son of Dhoman Thakur and Jagtar Singh son of Darshan Singh were property dealers whom he knew. They told him that a plot of a shop was on sale and he could purchase the same as the sellers of the shop were known to them. Based on the representation, he (complainant) agreed to purchase the shop at Prem Nagar for a sum of Rs.10,50,000/-. These two persons in connivance with the other accused whom he did not know previously presented one Gursat Singh

(petitioner) and another woman who was accompanied by Sonu Singh @ Baba (since granted bail vide order dated 09.12.2022 passed in CRM-M-56706-2022). The aforementioned two persons stated that the said person was Harnek Singh (but was actually Gursat Singh). The woman introduced herself as Jaswinder Kaur but was actually some other woman. By showing them to be the owners of the land they took away Rs.2 lakhs as earnest money from him on 19.04.2021 and got executed an agreement to sell in his favour. The woman put her thumb impression by introducing herself as Jaswinder Kaur and Gursat Singh put his fake signatures as a witness by introducing himself as Harnek Singh. Arvind Thakur, Jagtar Singh and Sonu Singh @ Baba also stood as witnesses to the agreement to sell stating that they personally knew Harnek Singh and Jaswinder Kaur. Sonu Singh @ Baba disclosed that he earlier had a deal with the sellers for this land but as the said land was not required by him, he took back his money from them. A photocopy of a sale deed and a photocopy of an agreement to sell executed with Sonu Singh @ Baba was given to him. A further sum of Rs.50,000/- was obtained from him on 25.05.2021 and a writing in that regard was made on the backside of the agreement to sell upon which Gursat Singh (petitioner) again put his signatures by calling himself as Harnek Singh and the woman put her thumb impression by introducing herself as Jaswinder Kaur. Arvind Thakur and Sonu Singh @ Baba were the identifiers. Later on, when he went to the address of Jaswinder Kaur as mentioned in the Aadhar Card, he met the original Jaswinder Kaur who told him that she had not executed any agreement to sell with him. Then she called her husband Harnek Singh who

was also another person and not the same person who had signed the agreement to sell in his (complainant's) favour. Thereafter, he realized that Sonu Singh @ Baba etc. had cheated him. Arvind Thakur and Jagtar Singh disclosed to him that the person who impersonated Harnek Singh was Gursat Singh against whom many cases were pending. When he demanded his money back they threatened him.

3. The learned counsel for the petitioner contends that the present FIR is an outcome of a property dispute between Sonu Singh @ Baba and Jaswinder Kaur wife of Harnek Singh regarding which a civil suit is pending before the Court at Barnala. Jaswinder Kaur had got registered an FIR against Sonu Singh @ Baba bearing No.28 dated 25.01.2022 registered under Sections 420/120-B at Police Station City Barnala in which a totally contradictory stand was taken. The said FIR did not lead to any action as the true facts were brought to the notice of the Police and therefore, the present FIR has been got registered. The petitioner is in custody since 08.10.2022, the report under Section 173 Cr.P.C. stands filed and since none of the 14 prosecution witnesses have been examined, the further incarceration of the petitioner is not required as the Trial of the present case is not likely to be concluded anytime soon. Even otherwise, the case is triable by the court of a Magistrate and the co-accused Sonu Singh @ Baba has been granted the concession of bail vide order dated 09.12.2022 passed in CRM-M-56706-2022.

4. On the other hand, the learned State counsel contends that the petitioner is an active participant in cheating the complainant. The role

played by him and the allegations against him do not entitle him to the grant of bail. He however, admits the period of custody undergone by the petitioner as also the fact that no prosecution witness has been examined so far.

5. I have heard the learned counsel for the parties at length.

6. The veracity of the allegations shall be established during the course of Trial. Admittedly, the petitioner is in custody since 08.10.2022 and none of the 14 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. The co-accused of the petitioner namely, Sonu Singh @ Baba has been granted the concession of regular bail vide order dated 09.12.2022 passed in CRM-M-56706-2022. The case is otherwise triable by the Court of a Magistrate. This Court in case bearing **CRM-M-24033-2021(O&M)** titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab*** Decided on **31.08.2022** has held that in cases triable by the Magistrate unless there are serious allegations of the accused absconding from trial, or tampering with the evidence, bail should only be declined in exceptional circumstances. In the present case, nothing exceptional has been pointed out as to why bail ought to be declined to the petitioner. Neither has the State expressed any serious apprehension of either the petitioner being a flight risk or likely to tamper with the evidence if he was granted the concession of bail.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Gursatt Singh son of Nazar Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than those referred to in the petition.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited, as per law, in case of the absence of the petitioner from Trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

09.03.2023

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No