

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-15682-2023

Date of Decision:-26.07.2023

Suraj Bhan.

.....Petitioner.

Vs.

State of Haryana & Anr.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. H.P.S. Ghuman, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

Mr. Anoop Kumar Yadav, Advocate for respondent no.2.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0007 dated 05.01.2023 under Sections 406, 420, 467, 468, 471, 34 IPC registered at Police Station City Narnaul, District Mahendergarh.

2. The brief facts of the case are that on 5.1.2023 a complaint was submitted by complainant Kailash Chand with the allegations that he was a resident of village Koriavas, Tehsil Narnaul and had retired from the ITBP. Suraj Bhan(petitioner), Ravinder and Jatinder were all related to each other. Suraj Bhan as a mediator asked him (complainant) to purchase agricultural land measuring 34 Kanals 02 Marlas for Rs.8,50,000/- from the vendors who were stated to be the residents of Yamuna Nagar. A sum of Rs.3,50,000/- was given by him (complainant) for the execution of the sale agreement.

Subsequently, on 24.11.2020 the accused called him to the courts at Narnaul

for the purpose of execution of the sale agreement, which he duly signed. After sometime, the aforementioned persons informed him that the vendors had become greedy and now wanted to finalize the deal for Rs.36,00,000/-. Accordingly, he (complainant) had paid a sum of Rs.36 lacs to the accused with the understanding that the sale deed would be executed within 11 months. Later, when he contacted the said persons for execution of the sale deed they started making excuses. On his verification it transpired that the vendors Mukesh and Geeta were in fact not residents of village Balaha Kalan and neither did they own any land in the said village. Suraj Bhan, Ravinder and Jitender had shown him (complainant) land belonging to some other persons. Thereby he had been cheated of Rs.36,00,000/- by Suraj Bhan, Ravinder and Jitender by fraud and impersonation under the garb of fake and fabricated sale agreement dated 24.11.2020. Legal action was sought.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The dispute between the parties is primarily civil in nature. The proceedings under Section 138 of the Negotiable Instruments Act, 1881 are pending between them. The instant FIR had been registered as a counter blast to the filing of the said complaint under Section 138 of NI Act. In fact, no offence as alleged in the FIR is made out. As the petitioner was in custody since 01.02.2023 and none of the 11 prosecution witnesses had been examined so far, he was entitled to the concession of bail more so when in the one other case registered against him he had been granted similar concession vide order dated 27.02.2023.

4. The Counsel for the State on the other hand contends that serious allegations have been levelled against the petitioner. He along with his co-accused had cheated the complainant for huge amount of money.

Therefore, the petitioner was not entitled to the grant of bail. He however, concedes that the petitioner is in custody since 01.02.2023, none of the 11 prosecution witnesses had been examined so far and in the FIR No.561 dated 22.09.2022 under Sections 420, 406, 467, 468, 471, 506 201 IPC P.S. City Narnaul the petitioner had been granted the concession of bail.

5. The Counsel for the complainant has vehemently opposed the bail application. He contends that a bare perusal of the FIR reveals that the offence is *prima facie* established against the petitioner and his co-accused. Civil and Criminal Proceedings could go on together. The present FIR had not been registered as a counterblast to the proceedings under Section 138 of the NI Act. He therefore prays that the present petition for grant of bail be dismissed.

6. I have heard learned Counsel for both the parties at length.

7. This Court in the case *titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022 has held as under:-

“ Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant. ”

8. Coming back to the facts of the instant case, admittedly the case is triable by the Court of Magistrate. There is no serious apprehension expressed by the learned Counsel for the state that the petitioner would abscond from justice, tamper with the evidence or influence the witnesses, if

he is granted the concession of bail. Even otherwise, the petitioner is in custody since 01.02.2023 and none of the 11 prosecution witnesses have been examined so far. In this situation the further incarceration of the petitioner is not required.

7. Thus, without commenting on the merits of the case, the petitioner-**Suraj Bhan** son of Sh. Ganpat (Ganpat Ram) is ordered to be released on bail subject 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 that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner or any person on his behalf shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.

10. The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 26, 2023
Vinay

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