

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-20009-2023

Date of Decision: 9.5.2023

Baljit Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Surjit Singh Swaich, Advocate
for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab.

KARAMJIT SINGH, J. (Oral)

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.103 dated 19.5.2022 registered for the offences punishable under Sections 420, 465, 467, 468, 471, 120-B IPC at Police Station Kharar (in fact Police Station Sadar Kharar), District SAS Nagar.

2. The allegations in nutshell are that Kulwinder Singh was the owner of the land in question and as per complainant-Gurmail Singh, said Kulwinder Singh executed one agreement to sell the said land with him on 30.1.2009 and on the basis of the said agreement to sell, the complainant has filed one suit for specific performance of agreement to sell dated 30.1.2009.

3. Plea of the petitioner is that aforesaid-Kulwinder Singh executed one agreement to sell dated 25.7.2008 with regard to the said property in his favour and thereafter, Kulwinder Singh executed registered

sale deed dated 6.8.2014 in favour of the petitioner. However, as per the complainant, the aforesaid agreement to sell dated 25.7.2008 is forged and fabricated document which has been prepared by the accused persons including the petitioner to defeat the rights of the complainant with regard to the land in question on the basis of the agreement to sell dated 30.1.2009.

4. Counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and he is bonafide purchaser of the land in question from its owner Kulwinder Singh vide sale deed dated 6.8.2014 and that the petitioner is in possession of the land in question. He further submits that the petitioner is incarcerated for the last more than 5 months and is having no criminal history and it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

5. Present petition is resisted by the State counsel who on instructions from ASI Davinder Singh submits that FIR in this case was registered on the directions of learned Judicial Magistrate who passed order under Section 156(3) of Cr.P.C.. He further submits that the petitioner colluded with Kulwinder Singh and other accused persons and fabricated agreement to sell dated 25.7.2008 in order to cause wrongful loss to the complainant who is having one agreement to sell dated 30.1.2009 in his favour from the side of Kulwinder Singh and regarding which civil suit is pending. He further contends that the land in question is now in possession of the complainant. State counsel, however, has not disputed the fact that the petitioner is in custody for the last more than 5 months and that the trial is at its initial stage.

6. I have considered the submissions made by the counsel for the parties.
7. It is a matter of evidence as to whether any alleged forgery or cheating is committed by the accused persons including the petitioner. The petitioner is in custody for the last more than 5 months and it will take considerable time for conclusion of trial and all the offences are triable by the Court of Judicial Magistrate, 1st Class. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.
8. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

May 9, 2023
Paritosh Kumar

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