

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

206

CRM-M No. 27293 of 2023

Date of Decision: 02.06.2023

RAM BAKSH @ RAMU

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Abhinav Gupta, Advocate
for the petitioner.

Mr.I.P.S.Sabharwal, D.A.G.Punjab.

RAJ MOHAN SINGH, J.(Oral)

1. The petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No. 27 dated 13.04.2023, registered under Section 420, 465, 468, 471, 120-B IPC at Police Station Daba, District Ludhiana.

2. As per allegations in the FIR, the complainant Jasinder Singh, patwari alleged that the petitioner came to him in the *patwarkhana* and handed over photocopies of five sale deeds for the purposes of entering mutations. The signature along with stamp of Rajinderpal Kaur Chhenna, MLA was present on the sale deeds. The complainant went to the office of MLA in order to verify whether the signatures were genuine or

not. The MLA told him that she never appended any signature on any photocopy of the sale deed nor affixed any stamp on any photocopy of the sale deed. On inquiry, the complainant came to know that Maninder Kaur, who is working in the office of MLA was instrumental in affixing the stamp of the MLA and putting the signature of MLA in connivance with the petitioner.

3. Learned counsel for the petitioner submits that the FIR has been registered in violation of principles laid down in **Arnesh Kumar vs. State of Bihar, 2014 (8) SCC 273** and **Satender Kumar Antil vs. Central Bureau of Investigation, (2021) 10 SCC 773** in as much as that no notice was issued under Section 41-A Cr.P.C., which is mandatory to be issued to the accused in cases where offences are punishable for seven years or less. The requirement of issuance of notice has also been extended to all other cases in addition to Section 498-A IPC or Section 4 of the Dowry Prohibition Act, where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine.

4. The petitioner is in custody since 13.04.2023. Learned counsel with reference to the allegations, submits that the petitioner is not the author of any such alleged forged signatures nor has affixed any stamp of MLA. The allegation of

forgery is not relatable to him. The police has not recorded the statement of the MLA so far.

5. On a pointed query put to the learned State counsel in respect of issuance of notice to the petitioner in terms of mandate of **Arnesh Kumar's case and Satender Kumar's case (supra)**, learned State counsel, on instructions from SI Daljeet Singh, submits that no notice was issued to the petitioner under Section 41-A Cr.P.C.

6. In view of **Satender Kumar's case (supra)**, the investigating agency is duty bound to comply with the mandate of Sections 41 and 41-A Cr.P.C. The directions issued by the Hon'ble Apex Court in **Arnesh Kumar's case (supra)** are to be mandatorily complied with. The Court is required to satisfy itself on the compliance of Sections 41 and 41-A Cr.P.C. and non compliance would entitle the accused for grant of bail. Any dereliction on the part of the Investigating Agency is required to be brought to the notice of the higher authorities by the Court followed by an appropriate action.

7. Evidently, no notice has been issued to the petitioner, therefore on the strength of the mandate given by the Hon'ble Apex Court in **Arnesh Kumar's case and Satender Kumar's case (supra)**, I deem it appropriate to grant regular bail to the petitioner.

8. In view of above, this petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

9. Nothing expressed hereinabove would be construed to be an expression of opinion on the merits of the case.

June 02, 2023

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No

**(RAJ MOHAN SINGH)
JUDGE**