

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

CRM-M-34414-2023

Date of Decision:-24.07.2023

Lokesh Partap Singh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Bhavdeep Singh Mamli, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

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.0293 dated 23.12.2021 under Sections 420, 406, 467, 471, 506, 120-B and 34 IPC registered at Police Station Radaur, District Yamuna Nagar.

2. The present FIR came to be registered on the basis of a complaint under Section 156(3) Cr.PC at the instance of the complainant Raj Kumar. As per the complaint, the complainant wanted to purchase land and one Harinder Singh Arora (accused no.2 in the complaint) assured the complainant that he could arrange for the purchase of the land as desired by the complainant. He assured the complainant that accused no.1-Lokesh Partap Singh (petitioner) was the owner of the land in question. In May 2018 both the accused had met the complainant to sell the land in question. However, some advance money was demanded as earnest money. On 18.06.2018 the accused met the complainant and asked him to arrange the

amount of earnest money and they (accused) would provide the *jamabandi* of the land to him (complainant). Thereafter, the complainant and his nephew Parveen Kumar had gone to Jagadhari alongwith cash for payment of earnest money to the accused. A sum of Rs.10,70,000/- was paid and the accused had shown a *jamabandi* to the complainant as per which accused no.1 (petitioner) was shown to be the owner of the land. The total price of the land was fixed at Rs.16,00,000/-. An agreement dated 08.06.2018 was also executed. When the complainant demanded a copy of the *jamabandi* from the accused they stated that they would provide another copy to him after getting the same from the Tehsil. Despite executing the agreement, the accused started putting of the matter of the execution of the sale deed on one pretext or the other. The complainant was forced to file a suit for specific performance for execution of the sale deed. Subsequently, he had gone to the Tehsil office where he found that accused were not the owners of the land and that he (complainant) had been cheated to part with the amount of Rs.10,70,000/- which he had paid as earnest money. Thereby a fraud had been committed upon him. He had made a complaint to the police but no action was taken, necessitating the filing of the instant complaint under Section 156(3).

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. No amount of money had ever been received by him. In fact the petitioner had entered into an agreement to sell with the previous owner Karan Singh and on the basis of the said agreement had entered into a subsequent agreement with the complainant. The complainant was aware of the fact that the petitioner was not the owner of the property but that the agreement had been entered into by the petitioner on behalf of Karan Singh. Even otherwise, no recovery of any forged or

fabricated *jamabandi* had been effected during the course of investigation. As the offence was triable by the court of a Magistrate and the petitioner had been in custody since 28.04.2023, he was entitled to the concession of bail more so as none of the 08 prosecution witnesses had been examined so far thereby delaying the conclusion of the Trial.

4. The Counsel for the State on the other hand contends that the offence is well established. The petitioner and his co-accused had deceived the complainant and he was made to part with a huge amount of money on the pretext that land would be sold to him. However, the petitioner was not the owner of the said land. Therefore, the nature of the allegations did not entitle the petitioner to the grant of bail. He however, concedes that the petitioner is a first time offender, in custody since 28.04.2023 and none of the 08 prosecution witnesses had been examined so far.

5. I have heard learned Counsel for the parties.

6. 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.”

7. In the instant case, admittedly the case is triable by the Court of a Magistrate. No serious apprehension has been expressed by the learned

Counsel for the State that the petitioner shall 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 28.04.2023 and none of the 08 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. As such his further incarceration is not warranted.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Lokesh Partap Singh** son of Sh. Kehar Singh is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner (or anyone 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 as per 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 24, 2023
Vinay

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