

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-38136-2022

Date of Decision: 15.3.2023

Sukh Ram Yadav

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. S.P.Garg, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Gaurav Gupta, Advocate,
for the complainant.

KARAMJIT SINGH, J.

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.118 dated 5.5.2021 registered for the offences punishable under Sections 406, 418, 420 IPC (Section 120-B IPC added later on) at Police Station Sarai Khawaja, District Faridabad.

The allegations in brief are that the petitioner without disclosing the fact that his residential property was lying mortgaged with the bank, entered into an agreement to sell the same with the complainant on 31.7.2007 and took in total ₹ 85 lakhs on different occasions from the complainant but thereafter, failed to execute the sale deed. Consequently, the complainant filed suit for specific performance of agreement which the petitioner lost up to Hon'ble Supreme Court and when the complainant filed

an application for execution of the decree, it was revealed that the property in question was already mortgaged by the petitioner with one bank to secure the loan.

Counsel for the petitioner submits that the petitioner is aged about 65 years and is suffering from heart problem for which he is taking treatment. He further submits that the petitioner is in custody for the last about one year and it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

Present petition is contested by the counsel for the complainant who submits that the petitioner entered into agreement to sell dated 31.7.2007 with malafide intention from the very beginning and the petitioner defrauded the complainant of ₹ 85 lakhs and finally, the complainant came to know that the petitioner took huge loan against the property in question. Counsel for the complainant further submits that the trial is going on. So, prayer is made that the present petition be dismissed.

Status report by way of affidavit of Satyapal, Assistant Commissioner of Police, Central District Faridabad filed on behalf of the State is ordered to be taken on record along with Annexure R-1 (custody certificate), Annexure R-2 (Medical report) and Annexure R-3 i.e. treatment record of Safdarjung Hospital, New Delhi. As per said status report, the petitioner is under treatment of Safdarjung Hospital, New Delhi for his heart ailment.

State counsel, while opposing the present petition, submits that the medical condition of the petitioner is stable. He further submits that in the present case, the petitioner deceived the complainant of ₹ 85 lakhs by entering into agreement to sell dated 31.7.2007 with regard to his residential

property which was already mortgaged with the bank. However, the State counsel on instructions from SI Chand Mohammad has not refuted the fact that the petitioner is in custody for the last about 1 year and is having no criminal history.

I have considered the submissions made by the counsel for the parties.

In the present case, all the offences are triable by the Court of Judicial Magistrate, 1st Class. The petitioner who is aged about 63 years, is in custody for the last more than 1 year and the trial is going on. However, it will take considerable time for the trial to conclude. From the perusal of documents Annexures R-2 and R-3, it appears that in 2019, the petitioner had undergone Coronary Artery By Pass Grafting.

In the given circumstances, no useful purpose is going to be served by prolonging the judicial custody of the petitioner.

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

March 15, 2023
Paritosh Kumar

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