

CRM-M-36997-2023 (O&M)

211

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36997-2023 (O&M)

Date of decision: August 04, 2023

Manjit Kaur and another

....Petitioners

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Parvinder Singh, Advocate for petitioners.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioners, a couple, before this Court seek their release as undertrials in a case bearing FIR No.133dated 05.07.2023, registered under Sections 420, 465, 467, 468, 471, 472, 120-Bof the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Navi Baradari, District Police Commissionerate Jalandhar.

2. Per prosecution version, one Mohinder Singh Sahota complained that Punjab Urban Development Authority (PUDA) allotted a plot No. 1273 measuring 262.5 sq yards, Urban Estate, Phase-1, Jalandhar to him and same was registered in his name vide sale deed No.7213 dated 19.03.1987. Complainant constructed a house over the plot. over the same.However, one HazaraRam, on the basis of forged power attorney, executed a sale deed dated 16.07.2020 in favor of Jasvir Singh and Harpreet Kaur. Thereafter, Hazara Singh, Jasvir Singh Nahal and Harpreet Kaur hatching a conspiracy with PUDA to sell the property further. An FIR was registered. Petitioners, subsequent vendees of Jasvir Singh Nahal and Harpreet Kaur, were arrested on 05.07.2023and are in custody ever since.

3. Learned counsel for petitioners submits that petitioners have been falsely implicated as no alleged offence is made out against them. He further submits that petitioners are *bona fide* purchasers of the property in question, since they had purchased the same from Jasvir Singh Nahal and Harpreet Kaur after paying due sale consideration.

CRM-M-36997-2023 (O&M)

Petitioners are third party purchasers in the chain. Alleged original owner, claiming to have legitimate title, had sold the property to Jasvir Singh Nahal and Harpreet Kaur, as is reflected from the contents of previous title holders recited in sale deed dated 16.07.2020 (Annexure P-4). He submits that record from the competent authority was duly verified by the petitioners before purchasing the property in question from Jasvir Singh Nahal and Harpreet Kaur. Permission to purchase the said property was also obtained vide letter dated 24.09.2020 (Annexure P-3) from the competent authority.

3.1. Learned counsel for petitioners further submits that petitioners are nowhere connected, overtly or covertly, with alleged allegation of the complainant regarding Power of Attorney dated 16.12.2019 (Annexure P-6) in favour of accused-Hazara Singh. On the basis of said Power of Attorney, Hazara Singh had sold the property in question to Jasvir Singh Nahal and Harpreet Kaur, subsequently from whom, petitioners purchased the same being *bona fide* purchasers. If at all, it is the petitioners who have been cheated of their money paid vide sale consideration by them. Also submits that alleged dispute over plot in question is purely civil in nature as *qua* same, a civil suit (Annexure P-7) seeking declaration has also been filed by the complainant against accused persons on 01.09.2022.

3.2. Learned counsel contends that there is no other case pending against petitioner No.1-Manjit Kaur. Against petitioner No.2-Tarlochan Singh, one FIR is registered, *qua* which a quashing petition is pending before this Hon'ble Court, and petitioner No.2 is on anticipatory bail in said FIR.

4. On the other hand, learned State counsel, on instructions from ASI Balkar Singh, opposes the petition. She submits that petitioners have committed a serious offence by cheating/ defrauding the complainant along with other accused. Learned State counsel further contends that if released on bail, they might tamper with evidence or influence/ intimidate the witnesses and also flee from the trial.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

CRM-M-36997-2023 (O&M)

6. On a Court query, learned State counsels submit that challan was presented, but charges are not framed yet. Investigation is complete *qua* petitioners, they are thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioners are a matter of trial at this stage. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioners have already been languishing in jail for the past more than 30 days in preventive custody, being behind bars since 05.07.2023.

7. In this case, concededly, petitioners are third party purchasers in the chain as they had admittedly purchased the property in question from Jasvir Singh Nahal and Harpreet Kaur who had earlier purchased the same from Hazara Singh, who is stated to be the Power of Attorney holder of complainant-Mohinder Singh. Matter, *qua* the petitioners, appears to be civil in nature. In fact, a civil suit is already pending between the parties regarding declaration of property in question instituted by complainant-Mohinder Singh.

8. Notwithstanding, petitioners are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

9. Petitioners are husband and wife. Having fixed abode, it is unlikely that they pose any flight risk and/or will flee from the trial proceedings. Offences allegedly committed by petitioners are of non-violent nature and in that sense their release on bail is not a threat to society at large by committing any violent crime.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.

11. Accordingly, petitioners are ordered to be released on bail, in case not required in any other case, on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

CRM-M-36997-2023 (O&M)

12. In case, petitioners are found to be involved or get involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant case.
13. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 04, 2023

mahavir

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No