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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40337-2023 (O&M)

Date of decision:23.08.2023

GurjitSingh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Monty Goyal, Advocate
for the petitioner.

Ms.Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by learned trial Court, petitioner before this Court, seeks his release as an undertrial in a case bearing FIR No.145 dated 22.09.2021, registered under Sections 192, 193, 199, 420, 182, 467, 468, 471 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station, City Khanna, District Ludhiana, Punjab.

2. Prosecution case is that an FIR No.145 dated 22.09.2021 under Section 420 IPC was registered against one Amandeep Kaur on the basis of complaint moved by Gurjit Singh-petitioner. Petitioner complained that on 14.01.2021, Amandeep Kaur entered into an agreement to sell a house measuring O-K 19/1-6M for a sum of Rs.20 lakh in his favour. She received Rs.4,75,000/- as earnest money and date of execution and registration of the sale deed was fixed as 05.02.2021. But on the date fixed Amandeep Kaur did not turn up and she flatly refused to execute/register the sale deed in favour of petitioner. She also refused to return the earnest money paid to her. Petitioner later came to know that Amandeep Kaur had cheated him as she had already executed the agreement to sell with regard to the same property in favour of one Virsa Singh and Manpreet Singh. FIR was registered. Amandeep Kaur was arrested and but released on bail by the arresting official. Amandeep Kaur also later on filed a police complaint stating that petitioner Gurjit Singh had forged her

signatures on agreement to sell. She had never entered into any agreement to sell with petitioner. The original agreement to sell was sent to office of FSL Punjab for the purpose of comparison. It was reported that said agreement to sell does not bear signatures of Amandeep Kaur and her signatures have been forged. So, the petitioner Gurjit Singh was arrested on 26.06.2023 and is in custody since then.

3. Learned counsel for the petitioner submits that petitioner is in fact, the complainant. He had moved a complaint against Amandeep Kaur for committing fraud and forgery. It was after thorough preliminary investigation, that an FIR was registered against Amandeep Kaur. Later on, Amandeep Kaur moved an application for cancellation of FIR. During the proceedings of said application, petitioner was called in police station and he was threatened by police officials that in case he wouldn't withdraw the FIR, they will falsely implicate him in a case at the instance of Amandeep Kaur. He further submits that Amandeep Kaur has not only committed fraud with petitioner, but also with other persons *qua* the same property and in this regard civil litigation is already pending between them. Petitioner is thus totally innocent.

3.1 Learned counsel further submits Amandeep Kaur has acted out of revenge against the petitioner, since FIR has been registered at the instance of petitioner making allegations against Amandeep Kaur. It is only after she was granted anticipatory bail that based on false allegations made by her, petitioner was subsequently arrested stating that he has forged her signatures. Further submits that in any case, matters are pending in civil court by way of Civil Suit No.293/2018 and Civil Appeal No. 785/2018. He further submits that nothing is to be recovered from the petitioner. No useful purpose would be served to keep the petitioner behind the bars to await the decision of trial of the case.

4. On the other hand, learned State counsel opposes the bail petition. She submits that petitioner has committed a serious offence. Investigation has not been

completed *qua* the petitioner. She, however, admits that no other case is pending against him.

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

6. On a Court query, under instructions from ASI Jagtar Singh, learned State counsel submits that challan is yet to be presented. No further custodial interrogation of petitioner is required. Allegations against petitioner are a matter of trial at this stage. Commencement/conclusion of the trial is likely to take quite sometime. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas petitioner has already been in custody for the last 01 month and 27, being behind bars since 26.06.2023.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he 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.

8. Be that as it may, offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime.

9. Petitioner is stated to be 68-year old, senior citizen having a family and clean antecedents and fixed abode, it is unlikely that he is flight risk or will flee from the trial proceedings.

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 petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned *Illqa* Magistrate/Duty Magistrate, as the case may be.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition 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

23.08.2023

vandana

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