

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

CRM-M-40344-2023

Date of Decision:-23.08.2023

Gurbachan Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Gurcharan Dass, Advocate &
Mr. Gautam Dutt, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

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.54 dated 23.05.2023 under Sections 420, 465, 468, 471, 506, 120-B, 447, 511 IPC registered at Police Station Anaj Mandi, Patiala.

2. The brief facts of the case are that Mohammad Taufiq gave complaint to the investigating agency with the allegations that he had purchased 02 plots from Munish Jindal son of late Parveen Kumar Jindal and Rohit Jindal son of late Parveen Kumar Jindal. However, the accused were attempting to take the forcible possession of the said plots. Pursuant to the filing of the complaint during the course of the an enquiry it transpired that the petitioner had purchased a plot in August 2008. After the instant complaint was filed, he purportedly fabricated an agreement to sell dated 5.10.2008 showing that he had agreed to sell a plot in question to Surjit Singh. However, in the garb of a sale deed dated 15.11.2022 based on the purportedly fabricated agreement dated 5.10.2008, an attempt was being made to forcibly dispossess the complainant.

3. The counsel for the petitioner contends that the allegations as

levelled are completely baseless. The complainant party has made no attempt whatsoever to challenge the sale deed in favour of Surjit Singh. On the other hand Surjit Singh who has purchased the property from the petitioner has filed a civil suit for permanent injunction against the present complainant Mohammad Taufiq in which the defendant (Mohd. Taufiq) etc., have been restrained from interfering in the peaceful possession of the plaintiff-Surjit Singh. He contends that the case is basically of a civil nature. As the petitioner was in custody since 13.06.2023, his further incarceration was not warranted.

4. The counsel for the State on the other hand contends that in order to dispossess the complainant the petitioner along with his co-accused Surjit Singh fabricated the agreement dated 5.10.2008 based on which the sale deed was executed by the petitioner in favour of Surjit Singh on 15.11.2022. The nature of the allegations levelled against the petitioner did not entitle him to the grant of bail.

5. I have heard the 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. The veracity of the prosecution case shall be adjudicated upon during the course of the trial. Admittedly, the petitioner is in custody since 13.06.2023. Civil proceedings regarding the property in question are pending adjudication between the parties. There is no serious apprehension expressed by the learned Counsel for the state that the petitioner would abscond from justice, tamper with the evidence or influence the witnesses, if he is granted the concession of bail. As the trial of the present is not likely to be concluded anytime soon, the further incarceration of the petitioner is

not warranted.

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

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. In addition, 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 trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 23, 2023
Vinay

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