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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42631-2023 (O&M)

Date of decision: September 04, 2023

Kuldip Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Manuj Nagrath, Advocate for petitioners.

Mr. Shubham Kaushik, AAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seek his release as an undertrial in a case bearing FIR No.133 dated 05.07.2023, registered under Sections 201, 380, 420, 465, 467, 468, 471, 472, 120-Bof the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Navi Baradari, District Jalandhar.

2. Per prosecution version, one Mohinder Singh Sahota had acquired Plot No. 1273, spanning 262.5 sq. yards, within Urban Estate, Phase-I, Jalandhar, through Sale Deed No. 7213, dated 19.03.1987. He constructed a house on this plot. However, a person named Hazara Ram, using a forged power of attorney, executed a sale deed on 16.07.2020 in favor of Jasvir Singh and Harpreet Kaur. Subsequently, Hazara Singh, Jasvir Singh Nahal, and Harpreet Kaur conspired with PUDA to further sell the property, executing a sale deed on 24.09.2020 in favor of Tarlochan Singh and Manjit Kaur. All the accused had the intention of wrongfully taking possession of the complainant's property using fraudulent documents.

2.1. During the investigation, Tarlochan Singh, the purchaser, gave disclosure statement dated 05.07.2023, revealing that he is a property dealer, and his son Narinderjit Singh, also known as Happy, was also involved. Co-accused Jaspreet Singh, alias JP, and the petitioner were familiar to him. The petitioner used to assist them in preparing documents from the PUDA office. Tarlochan Singh approached the petitioner and

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Jaspreet Singh to identify a valuable property that could yield a substantial profit. The petitioner mentioned that a property with House No. 1873, registered in the name of Mohinder Pal, was situated in Urban Estate, Phase-I, Jalandhar, and suggested that they could make a significant profit by handling the paperwork for it. Consequently, they created a forged power of attorney in the name of Hazara Ram, impersonating Mohinder Singh. Following this, the initial sale deed was executed in the name of Harpreet Kaur, who happens to be the petitioner's sister-in-law, and Jasbir Singh, an acquaintance of Jaspreet Singh. Later, Tarlochan Singh had a sale deed executed in his own name and in the name of his wife. Once again, the petitioner and Jaspreet Singh entered into an agreement to sell the aforementioned house, for which a No Objection Certificate (NOC) was necessary and was to be arranged by the petitioner. An FIR was registered. Petitioner was arrested on 11.07.2023 and is in custody ever since.

3. Learned counsel for petitioner submits that petitioner was not named in the FIR. He submits that dispute in question is primarily of a civil nature which has been given a criminal color for ulterior motives. He submits that neither petitioner has any role in the alleged offence nor is the beneficiary to the alleged property. Complainant has already filed a civil suit for adjudication of the dispute. He further urges that petitioner, in exercising his official duty after following due procedure and guidelines of the PUDA, had witnessed the alleged document of sale deed No.1444 dated 16.07.2022 on the request of a close relative. No alleged offence is made out against the petitioner.

3.1. He further submits that co-accused Manjit Kaur and Tarlochan Singh were granted bail by this Court vide order dated 04.08.2023 passed in CRM-M-36997-2023. He also submits that similarly placed co-accused, namely Jaspreet Singh alias JP has also been granted bail vide order dated 01.09.2013 passed in CRM-M-42337-2023 by this Court. He further argues that, in any case, from the narrative of the FIR, it is categorically clear that the entire dispute is purely civil in nature.

3.3. He further submits that petitioner has thus been falsely implicated. No alleged offence is made out. Petitioner is thus totally innocent. He further submits that

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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 petition. He submits that petitioner has committed a serious offence by cheating/ defrauding the complainant along with other accused. If enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or influence the witnesses. He though admits that petitioner is not involved in any other case.

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

6. On a Court query, learned State counsel, on instructions from ASI Lakhwinder Singh, submits that challan is in final stage of preparation and will be presented soon.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Commencement/ Conclusion of trial is still likely to take quite sometime. Whereas, petitioner has already been languishing in jail for the past 1 month and 23 days, being behind bars since 11.07.2023.

8. 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.

9. Be that as it may, *prima facie*, it appears to be civil dispute between the parties. Alleged offence is of non-violent nature and in that sense petitioner's release on bail is not a threat to society at large.

10. It is stated that petitioner is a 40-year old married person, working as a Superintendent (was clerk at the time of allegation leveled) in PUDA, having wife and three minor children (02 daughters and 01 son) who all are dependent on him. Being family man and having fixed abode and clean antecedents, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

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11. Co-accused of the petitioner, namely, Manjit Kaur, Tarlochan Singh and Jaspreet Singh alias JP have also been granted concession of bail, as aforesaid.
12. 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.
13. 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 *Ilaqa* Magistrate/Duty Magistrate, as the case may be.
14. 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.
15. 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.
16. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September04, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No