

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

**CRM-M-48294-2022
Date of Decision: 13.01.2023**

Balinder

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. R.S. Dhull, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana
for the respondent/State.

Mr. Mayur Karkara, Advocate
for the complainant along with
complainant-in-person.

HARSH BUNGER J. (ORAL)

Present petition under Section 439 Cr.P.C. has been filed for grant of regular bail to the petitioner in case bearing FIR No.60 dated 07.03.2022 (Annexure P-1), under Sections 120-B, 406, 409, 420 and 506 IPC, registered at Police Station Kalayat, District Kaithal.

The aforesaid FIR (Annexure P-1) was registered on the basis of complaint of Baldev Singh, who had stated that after selling of 5 acres of land, he entered into an agreement to buy 4 acres of land from Balinder (petitioner herein) and gave earnest money of Rs.27,00,000/- to the

petitioner. Thereafter on 21.10.2021, he transferred an amount of Rs.30,00,000/- through RTGS to the petitioner's HDFC Bank Account. In this manner, petitioner received a total amount of Rs.57,00,000/-. Thereafter on 13.12.2021, the petitioner asked for an amount of Rs.40,00,000/- in cash from the complainant, for getting the sale deed registered, which was given to him at the house of one Sompal Rana s/o Mangat Ram. It is stated in the complaint/FIR that when petitioner and complainant reached the Tehsil Office, Kaithal, the petitioner refused to get the sale deed registered as the Dealer was not present there, and the date for getting the sale deed registered was decided as 15.12.2021. But even on the said date, the petitioner did not come forward to get the sale deed registered, whereupon the complainant filed a complaint to Superintendent of Police, Kaithal on 30.12.2021, which was marked to the Station House Officer, Police Station Kalayat, who called both the parties and respectable people as well as the Panchayat on 07.01.2022, whereupon the petitioner and co-accused (Suresh) accepted the fact of taking an amount of Rs.40,00,000/-, however later on, the petitioner refused to return the money. Accordingly, the complaint was filed by the complainant against the petitioner, seeking recovery of an amount of Rs.40,00,000/- and cheating in the name of sale of land. It appears that the petitioner was arrested in the present case on 14.04.2022 and he applied for grant of bail under Section 439 Cr.P.C. before the Court of Additional Sessions Judge, Kaithal, however the same was dismissed vide order dated 14.06.2022. Accordingly, the present petition has been filed.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is submitted that a pure

civil dispute has been given the colour of criminal nature and at best it can be considered as a case of breach of contract. It is submitted that the petitioner is in custody since 14.04.2022, challan in the present case was presented on 07.05.2022 and thereafter the case was fixed for consideration on the framing of charges before the trial Court.

During the course of proceedings, on 09.01.2023, learned counsel for the petitioner had submitted that the petitioner is ready and willing to amicably settle the dispute with the complainant and in order to show his *bona fide*, he shall bring a demand draft of Rs.4,00,000/- in the name of complainant on the next date of hearing, i.e. 13.01.2023.

Today, i.e. on 13.01.2023, learned counsel for the petitioner has brought a demand draft bearing No.000112, for a sum of Rs.4,00,000/- in the name of Baldev Singh (complainant), drawn on Central Bank of India. Copy thereof is supplied in Court itself, which is taken on record, subject to all just exceptions.

Learned counsel for the petitioner submits that so far as the petitioner is concerned, an amount of Rs.57,00,000/- would be recoverable from him, out of which, some amount already stands recovered and another sum of Rs.4,00,000/- has been brought by him in Court today.

At this stage, learned counsel representing the complainant does not dispute the aforesaid submission made by learned counsel for the petitioner. The complainant, namely Baldev Singh, who is also present in Court and he has been duly identified by his counsel, accepts the aforesaid demand draft amounting to Rs.4,00,000/- and submits that if the petitioner is ready to work out the modalities regarding payment of the balance amount to him then he has no objection in case the bail is granted to the

petitioner in this case.

Learned State counsel has although opposed the prayer of petitioner for grant of regular bail on the ground of seriousness of the offences, however, he does not dispute the facts that the petitioner is in custody since 14.04.2022 and investigation in the case is complete and challan stands presented on 07.05.2022. Learned State counsel, while relying upon reply dated 07.01.2023, has further submitted that after registration of the case against the petitioner, certain amounts have been got recovered from him. Further, learned State counsel does not raise any objection with regard to the amicable resolution of dispute between the parties concerned.

I have heard learned counsel for the parties and perused the paper book.

The investigation in the matter is complete, challan stands presented on 07.05.2022 and the petitioner is in custody since 14.04.2022. Considering the submission of learned counsel for the petitioner that the petitioner is ready and willing to amicably settle the dispute with the complainant, accordingly, this Court deems it appropriate to grant one opportunity to the petitioner to course-correct.

Keeping in view the aforestated circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned.

At the time of release of the petitioner, the concerned Court shall fix a date for calling the parties (petitioner and complainant) before it and provide an opportunity to them to work out the modalities of settlement

between them and take further recourse to remedies as per law, failing which, the complainant shall be at liberty to move an appropriate application for revival of this petition.

Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of in the aforestated terms.

13.01.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No