

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRM-M-51362-2022 (O&M)
Decided on : 24.03.2023

Birbal Singh

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. S. S. Grewal, Advocate
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

SANJAY VASHISTH, J. (Oral)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to petitioner, namely, Birbal Singh, aged 51 years, who has been booked for having committed the offences punishable under Section 420 of the Indian Penal Code, 1860, in case FIR No. 57 dated 23.07.2021, registered at Police Station SGN Dev Thermal Plant, Bathinda.

2. Learned counsel for the petitioner submits that as per allegations in the FIR, petitioner is the purchaser of one Kothi measuring 216.66 Sq. Yards from the complainant-Satnam s/o Bhupender Singh, for a sum of Rs.10,73,000/- . Counsel for the petitioner also refers to the admitted fact mentioned in the FIR by the complainant that said amount had been received by him through RTGS. Document of registered sale deed is also referred, where the signatures of the complainant are affixed and same is not in dispute. Apart this, counsel also refers to the undertaking, which is also signed by the petitioner as well as by the complainant. The only dispute

raised by the petitioner is that he has not been paid the complete amount. To substantiate the said allegations, there is no plausible and strong evidence with the prosecution to justify the further incarceration inside jail for indefinite period. He further submits that FIR against the petitioner is registered only under Section 420 IPC, which is triable by the Court of learned Magistrate and for the last more than six months, petitioner is inside jail, thus, allegations are yet to be proved.

3. Per contra, learned State counsel has furnished custody certificate dated 23.03.2023. Same is taken on record. Registry is directed to tag the same at appropriate place.

He submits that after completion of investigation, final report under Section 173(2) Cr. P.C. has been submitted, thereafter, charges were framed and two witnesses out of 21 prosecution witnesses have been examined. While referring to the said custody certificate, learned State counsel submits that petitioner is inside jail for the last 06 months and 25 days and two more cases under Section 473 IPC and 138 of Negotiable Instruments Act, are pending against him.

In this context, petitioner submits that in both the said Excise Act cases, petitioner is already on bail and trial is pending adjudication.

4. Be that as it may, I find that decision of the money dispute between petitioner and the complainant will take considerable time because trial is at its beginning stage as only 2 witnesses out of 21 prosecution witnesses have been examined. Further, petitioner is inside jail for more than six months, thus, he cannot be forced to remain in custody for an indefinite period. Otherwise also, offence is triable by the Court of learned Magistrate.

5. Considering all the facts and circumstances and after hearing both the sides and perusing the record available before me, I deem it

appropriate to grant bail to the petitioner. Therefore, present petition is **allowed**.

6. Accordingly, petitioner is ordered to be released on bail in this case, subject to the furnishing of bail/surety bonds to the satisfaction of the learned Trial Court/Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

7. Observations made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

8. Petition Stands disposed of.

(SANJAY VASHISTH)
JUDGE

24.03.2023

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Whether speaking/reasoned: *Yes/~~No~~*
Whether Reportable: *Yes/~~No~~*