

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-55613-2022 (O & M)

Date of decision: 14.02.2023

Sanjay Punj

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rahul Gautam, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Ram Bilas Gupta, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.254 dated 01.07.2022 under Sections 420, 467, 468, 471 IPC registered at Police Station Central, District Faridabad.

2. The brief facts of the case are that one Savita Rani Narang filed a complaint stating therein that she was a cashier and working as a committee member of Green Estate and HRE Plot Holders Association. One Kulbhushan Batra was the working president of the Association continuously from September 2015. In the revenue estate of Ismailpur and Agwanpur of District Faridabad there was 135 acres of land registered in the name of the Association and some land was on lease hold. There was no provision to sell the land of the Association in the Byelaws of Association.

Sanjay Punj (petitioner) was never elected as a president of the Association.

However, he was the President of Naveen Co-operative House Building Society from 2016 to 2021. The Green Estate and HRE Plot Holders Association had authorized the Naveen Co-operative House Building Society to take care of and develop the land. However, no right had been given to sell the land. Sanjay Punj-petitioner had sold the land to many people on the basis of agreement by showing a fake proposal dated 15.07.2016 (actual date 10.07.2016) to sell 2 acres of land passed in the general body meeting of the Green Estate and HRE Plot Holders Association (hereinafter referred to as Association). There was no proposal to sell the land of the Association in the agenda of the meeting held on 15.07.2016 (actual date 10.07.2016). Despite that, citing the fake proposal the land of the society was sold to many persons on the basis of agreements by Sanjay Punj. In that regard an FIR No.399 stood registered on 10.07.2019 under Sections 406, 420, 467, 468, 471 IPC at P.S. Central, Faridabad against the petitioner which was pending adjudication in court. Similarly FIR No.688 dated 19.11.2019 under Section 406, 420 IPC stood registered against the petitioner at P.S. Palla, District Faridabad for selling land of the association fraudulently. This case was also pending in the court. The petitioner in collusion with his friends Lal Ji Shrivastava and S.B.L. Verma had sold 2 Kanal 2 Marlas of land of the Association in the revenue estate of village Ismailpur to Rajesh Kumar Jain son of Late Sh. Kamta Prasad Jain for a sum of Rs.65 lacs through an agreement dated 19.09.2020. Based on the aforementioned allegations the present FIR came to be registered.

3. The Counsel for the petitioner contends that the petitioner is the

Society. He has filed many cases in the capacity of Secretary and got false sale deeds cancelled. In fact some sale deeds had been executed by one Krishan Lal Sharma showing himself to be the secretary. Certain civil suits were also filed wherein the complainant was a plaintiff. It is contended that the petitioner had been duly appointed as President of the Association and it was therefore, that on 10.07.2016 the meeting of the general house was convened and it was resolved to sell 02 acres of land and the petitioner being the President was authorised to form a committee of 5 members to deal and negotiate with the buyer. In fact the said land has been sold to meet legal expenses as the land of Green Estate and HRE Plot Holders Association had been grabbed by many person and sold thereafter. The petitioner had himself filed 45 cases to get the land vacated which were pending before the Trial Courts. He contends that in the FIR No.686 dated 19.11.2019 the petitioner had been granted the concession of anticipatory bail vide order dated 31.09.2021 passed in CRM-M-3464-2020. A copy of the aforesaid order has been placed on record as Mark 'A' whereas in FIR No.399 dated 11.07.2019 under Sections 406, 420, 468, 471 and 120B IPC at Police Station Central Faridabad, the petitioner was granted the concession of regular bail vide order dated 25.11.2019 (Annexure P-5). As per document Mark 'B', in FIR No.398 of 2016, the petitioner has already been granted bail on 21.02.2017 and in FIR No.168 dated 05.03.2017 under Sections 406, 420 IPC registered at Police Station Sarai Khawaja, he has been granted the concession of anticipatory vide order dated 26.04.2017 passed by the Additional Sessions Judge, Faridabad. A copy of this order is placed on record as Mark 'C'. He

prosecution witnesses had been examined so far, and therefore, since the case is triable by the Court of a Magistrate, he was entitled to the grant of bail.

4. The learned counsel for the State, on the other hand, while referring to the reply dated 04.02.2023 filed by way of an affidavit of Satyapal, HPS, Assistant Commissioner of Police, Central Faridabad, contends that the serious allegations have been levelled against the petitioner. Despite the fact that in FIR No.399 dated 11.07.2019 under Sections 406, 420, 468, 471 and 120-B IPC at Police Station Central Faridabad, while granting the bail to the petitioner, he was asked not to commit a similar offence, he has gone and committed other offences. Therefore, since he had flouted the conditions of bail imposed upon him, he was not entitled to the concession of bail in the present case.

5. The learned counsel for the complainant while supporting the State vehemently argues that the allegations levelled in the present FIR coupled with the criminal antecedents of the petitioner, did not entitle him to the grant of bail.

6. I have heard the learned counsel for the parties.

7. Undoubtedly, the petitioner has criminal antecedents. However, in the said cases, which are triable by the Court of a Magistrate, he has been granted the concession of bail. The veracity of the allegations against the petitioner in the present case shall be established during the course of a Trial. The petitioner is in custody since 12.10.2022 and none of the 09 prosecution witnesses have been examined so far. Therefore, the Trial of the present

“Maninder Sharma versus State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab, (CRM-M-24033-2021 decided on 31.08.2022), has stated that 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”. In the instant case, no serious reservations have been expressed by the State that the petitioner would abscond from Jail or influence witnesses if he was granted the concession of bail.

8. In view of the aforementioned discussion without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sanjay Punj, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case except the cases mentioned hereinabove.

10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

11 In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.

12. The Trial Court is directed to conclude the Trial within a period of 06 months from the next date fixed before it.

February 14, 2022
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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