

CRM-M-58441-2023
Date of decision: 24.11.2023

Versus

State of Haryana ...Respondent

Present: Mr. Sanchit Punia, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.612 dated 13.06.2023 under Sections 419/420/468/471 and 120B of IPC registered at Police Station Hisar Sadar District Hisar.

Brief facts of the case are that the complainant had two sister-in-laws, namely, Sudesh and Mukesh. Mukesh died in the year 2005 and all the alleged accused persons were colluding with each other and grabbed the land of the complainant-Amita by inducing her husband-Ramesh. Even the land, registered under the name of the complainant was also got transferred by accused No.1-Sudesh on the name of accused No.2 & 3 i.e. aunt-in-laws of the complainant and sisters of mother-in-law of the complainant. It is further alleged that Sudesh, sister-in-law of the complainant, in connivance with one, Mukesh had fraudulently and by impersonation got registered the land of the complainant and the land which belonged to Ramesh, had also been transferred

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to accused No.2 without any monetary transaction in which the marginal witnesses have also participated in this fraud and given their testimony and thus, the present FIR was got registered.

Learned counsel for the petitioner *inter alia* contends that there is an inordinate and unexplained delay of ten years in lodging the FIR. The petitioner is a widow having two minor children and she is behind the bars since 29.09.2023. The entire case is based upon the documentary evidence which is already in the possession of the Investigating Agency.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that there are specific allegations with regard to the forgery and impersonation against the present petitioner.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in

curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and perusing the records of the case, it transpires that the maximum sentence under the offences in which the FIR is lodged is seven years and the case is triable by the learned Magistrate. The petitioner is a widow lady, has two minor children she is behind the bars since 29.09.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case would take long time to conclude.

Keeping in view the facts and circumstances of the case, the fact that the petitioner is not involved in any other case and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Mukesh is ordered to be released on regular bail during trial on her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

24.11.2023

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