

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

CRM-M-60084-2023

Date of Decision:-05.12.2023

Ravinder & Anr.

.....Petitioners.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Manoj Tanwar, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0007 dated 05.01.2023 under Sections 406, 420, 467, 468, 471, 34 IPC registered at Police Station City Narnaul, District Mahendergarh.

2. The brief facts of the case are that on 5.1.2023 a complaint was submitted by complainant Kailash Chand with the allegations that he was a resident of village Koriavas, Tehsil Narnaul and had retired from the ITBP. Suraj Bhan(since granted bail vide order dated 26.07.2023 in CRM-M-15682-2023), Ravinder (petitioner no.1) and Jatinder (petitioner no.2) were all related to each other. Suraj Bhan as a mediator asked him (complainant) to purchase agricultural land measuring 34 Kanals 02 Marlas for Rs.8,50,000/- from the vendors who were stated to be the residents of Yamuna Nagar. A sum of Rs.3,50,000/- was given by him (complainant) for the execution of the sale agreement. Subsequently, on 24.11.2020 the

accused called him to the courts at Narnaul for the purpose of execution of the sale agreement, which he duly signed. After sometime, the aforementioned persons informed him that the vendors had become greedy and now wanted to finalize the deal for Rs.36,00,000/-. Accordingly, he (complainant) had paid a sum of Rs.36 lacs to the accused with the understanding that the sale deed would be executed within 11 months. Later, when he contacted the said persons for execution of the sale deed they started making excuses. On his verification it transpired that the vendors Mukesh and Geeta were in fact not residents of village Balaha Kalan and neither did they own any land in the said village. Suraj Bhan, Ravinder and Jitender had shown him (complainant) land belonging to some other persons. Thereby he had been cheated of Rs.36,00,000/- by Suraj Bhan, Ravinder and Jitender by fraud and impersonation under the garb of fake and fabricated sale agreement dated 24.11.2020. Legal action was sought.

3. The Counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. The dispute between the parties is primarily civil in nature. They were only witnesses to the agreement. The proceedings under Section 138 of the Negotiable Instruments Act, 1881 were pending between the parties. The instant FIR had been registered as a counter blast to the filing of the said complaint under Section 138 of NI Act. In fact, no offence as alleged in the FIR was made out. As the petitioners were in custody since 05.10.2023 and none of the 17 prosecution witnesses had been examined so far, they were entitled to the concession of bail more so when in the one other case registered against them they had been granted the similar concession and a co-accused had already been released on bail.

4. The Counsel for the State on the other hand contends that

serious allegations have been levelled against the petitioners. They along with their co-accused had cheated the complainant for huge amount of money. Therefore, the petitioners were not entitled to the grant of bail. He however, concedes that the petitioner were in custody since 05.10.2023, none of the 17 prosecution witnesses had been examined so far and in the FIR No.65 dated 6.3.2022 under Sections 148, 149, 186, 224, 225, 332, 353, 506 IPC and Section 61 of Punjab Excise Act P.S. Sadar Narnaul the petitioners had been granted the concession of bail.

5. The Counsel for the complainant has vehemently opposed the bail application. He contends that a bare perusal of the FIR reveals that the offence is *prima facie* established against the petitioners and their co-accused. Civil and Criminal Proceedings could go on together. The present FIR had not been registered as a counterblast to the proceedings under Section 138 of the NI Act. He therefore prays that the present petition for grant of bail be dismissed.

6. I have heard learned Counsel for both the parties at length.

7. This Court in the case *titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022 has held as under:-

“ Therefore, 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. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant. ”

8. Coming back to the facts of the instant case, admittedly the case

is triable by the Court of Magistrate. There is no serious apprehension expressed by the learned Counsel for the state that the petitioners would abscond from justice, tamper with the evidence or influence the witnesses, if they are granted the concession of bail. Even otherwise, the petitioners are in custody since 05.10.2023 and none of the 17 prosecution witnesses have been examined so far. In this situation the further incarceration of the petitioners is not required, more so when a co-accused has already been granted the concession of bail.

7. Thus, without commenting on the merits of the case, the petitioners-**Ravinder** son of Sh. Chandgiram and **Jitender** son of Sh. Leela Ram is ordered to be released on bail subject to their satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that they are not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.50,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioners from the Trial without sufficient cause.

10. The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 05, 2023

Vinay

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