

CRM-M-62089 of 2023
CRM-M-59544 of 2023

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2023:PHHC:165688

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-62089 of 2023
CRM-M-59544 of 2023
Date of decision:- 22.12.2023

1. CRM-M-62089 of 2023

PHOOL KANWAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

2. CRM-M-59544 of 2023

POONAM

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Ashwani Bakshi, Advocate
for the petitioner.
Mr. Surender Singh, AAG, Haryana.
Mr. Parveen Sharma, Advocate for the complainant.

SANJIV BERRY, J. (ORAL)

1. Learned counsel for the State filed custody certificates in both the cases, the same are taken on record, copy supplied to the counsel opposites.

2. Both the petitions arising out of the same FIR for grant of regular bail has been taken up together for disposal.

3. The instant petitions have been preferred by the petitioners under Section 439 of the Code of Criminal Procedure for grant of regular in

the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
0177	04.05.2023	120-B, 406, 420, 467,471 & 506	Sonipat Sadar, District Sonipat.

4. Heard.
5. It is *inter alia* contended by learned counsels for the petitioner(s) that the petitioners are innocent and have been falsely implicated in this case. He contends that the infact the civil dispute arising out of agreement to sell dated 31.01.2023 has been tried to be converted into criminal case by getting present FIR lodged. He contends that the petitioners namely Phool Kanwar and Poonam are in custody since 07.06.2023 and 12.05.2023 respectively. He contends that infact civil suit was already filed by petitioner Poonam in the Civil courts where the complainant had never challenged the sale deed in the civil Court. He submits that challan has already been presented in Court and as such the petitioners are not required for further investigation as such prays for grant of bail.
6. Learned State counsel assisted by learned counsel for complainant has opposed the bail application by arguing that the petitioners are instrumental in getting the sale deed effected on 20.02.2023 on the basis of agreement to sell dated 31.01.2023 without being any consideration and have therefore, cheated the complainant as such they did not deserve concession of bail.
7. After considering the rival contentions and perusing the record, it transpires that the dispute in the present case revolves around the agreement to sell dated 20.02.2023 on the basis of agreement to sell dated

31.01.2023. It is evident that the petitioners are instrumental in getting the aforesaid transactions without payment of the amount of sale consideration thereby cheated the complainant. Admittedly, petitioners namely Phool Kanwar and Poonam are in custody since 07.06.2023 and 12.05.2023 respectively, challan after investigation of the case has already presented in court and the trial court has framed the charges. It is apprised by learned counsel for the State only 1 witnesses out of the 28 witnesses cited by the prosecution have been examined till date and there is no other case against the petitioners. The conclusion of trial to ascertain criminal liability, if any, on the petitioners will take sufficient long time and no useful purpose would be served by keeping them behind bars any longer.

8. Resultantly, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioners behind bars. Therefore, the present petitions are allowed. The petitioners are ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

22.12.2023

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- i) Whether speaking/reasoned?
- ii) Whether reportable?

Yes/No

Yes/No