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CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This common order of mine shall dispose of above-mentioned three petitions as they arise from the similar factual matrix. However, for the sake of brevity, facts are culled out from CRM-M-739-2024.

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.300 dated 03.10.2023 under Sections 420/467/468/471/120-B of IPC registered at Police Station Derabassi, District SAS Nagar, Mohali, Punjab.

Mr. Gauravjit Singh Patwalia, Advocate and Mr. Rahil Mahajan, Advocate put in appearance on behalf of the petitioner (in CRM-M-739-2024) and file *vakalatnama* along with 'no objection' from the counsel earlier representing the petitioner, in the Court today which is taken on record.

The present FIR was registered on the basis of complaint bearing No.95/R/ASP/DB dated 03.10.2023 moved by the Executive Officer of Municipal Council, Dera Bassi, wherein it was apprised that Sh. Sumit Gupta had informed MC, Dera Bassi on 06.09.2023 that sale deeds are being registered at Tehsil Dera Bassi on the basis of false and forged NOCs. The aforesaid person had moved an application before the EO, MC Derabassi in this regard, along with copy of file No.52118 vide which online NOC/plot regulation certificate was shown to be issued by MC Derabassi, whereas, as per online record of MC Derabassi, no such NOC bearing aforesaid file number was ever issued by MC, Dera Bassi. He further intimated that on the basis of above said plot regulation certificate, sale deed dated 10.08.2023 was registered by Tehsildar Dera Bassi. Copy of which was also annexed. Consequent to the aforesaid application given by Sumit Gupta, MC Dera Bassi sought the copies

of sale deeds as well as the NOC/plot regulations certificate annexed with the sale deed w.e.f. 01.01.2023 to 31.08.2023, within the jurisdiction of Tehsil Dera Bassi by dint of their letter No.2529 dated 06.09.2023 and letter No.2970 dated 18.09.2023 from Tehsildar, Dera Bassi. In pursuance to the aforesaid letter, Tehsildar Dera Bassi, vide his letter No.458 dated 22.09.2023 provided 608 copies of online NOC/plot regulation certificate, 139 offline maps and plot regulation certificate and 50 offline NOCs for registration of sale deed to the office of MC Dera Bassi and the same were got verified by the Building Branch of MC Dera Bassi. Upon inquiry/verification by the Building Branch, it was found that out of the total NOC/Map/Building permit, provided by Tehsildar Dera Bassi, four online maps (Sr. No.170 to 173) and two offline building permits were found to be forged.

Learned counsel for the petitioner, namely, Suresh Jain @ Suresh Kumar, *inter alia* contends that the petitioner is 63 years of age. He further submits that neither the petitioner is involved in any other case nor he is named in the present FIR and has been nominated as an accused only on the basis of disclosure statement made by co-accused-Gulshan Kumar, while in police custody which has no evidentiary value in the eyes of law. The petitioner has purchased the stamp papers worth Rs.60 lakhs and deposited the amount with the Government Treasury after obtaining 1% of commission as per norms. There is no specific allegation against the petitioner to attract the offences under Sections 420/467/468/471 of IPC.

Learned counsel for the petitioner, namely, Vidyanand Thakur @ Vicky, submits that he is not named in the FIR and has been nominated as an

accused only on the basis of disclosure statement of co-accused, Ritik Goel while in police custody which has no evidentiary value in the eyes of law. He further submits that the petitioner is not involved in any other case.

Learned counsel for the petitioner, namely, Gulshan Kumar, submits that he is also not named in the FIR and the gist of allegations against the petitioner is that he has sold 77 plots and forged the NOCs. He further submits that none of the 77 persons, who have purchased the plots, have come forward to lodge complaint against the petitioner.

Per contra, the learned State counsel, on instructions from HC Sukhjinder Singh, opposes the grant of regular bail to the petitioners on the ground that a huge fraud has been committed by the petitioners by conniving each other and their complicity is duly established on record and which has caused huge loss to the State Exchequer. Further, he could not controvert the fact that the petitioners are not involved in any other case.

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 after perusing the record of the case, it transpires that the petitioners, namely, Suresh Jain @ Suresh and Gulshan Kumar are behind the bars since 17.10.2023 and petitioner, namely, Vidyanand Thakur @ Vicky is behind the bars since 26.10.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 15.01.2024 and trial of the case has not made much progress as out of 87 prosecution witnesses none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioners. Keeping the petitioners in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners-Suresh Jain @Suresh, Vidyanand Thakur @ Vicky and Gulshan Kumar are ordered to be released on regular bail during trial on their 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

18.03.2024
Neha

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