

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8418-2024
DECIDED ON: 21.02.2024

GURJIT SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Akhil Ahuja, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Sidharth Chawla, Advocate
for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., for grant of regular bail to the petitioner in FIR No.265, dated 01.12.2021 (Annexure P-1), under Sections 420, 467, 468, 471 IPC, registered at Police Station Kotwali Nabha, District Patiala.
2. Learned counsel for the petitioner contends that the instant FIR is a result of execution of agreement to sell pertaining to the land measuring 3 kanal 7 marlas, which was purchased by the father of the petitioner and on account of the said agreement to sell, the allegations pertaining to the offences under Section 420, 467, 468 and 471 IPC, which are actually not made out, as is evident from the version narrated in the FIR itself inasmuch as the issue of genuinity of the document cannot be ascertained by Civil

Court, as has been argued by the learned counsel for the petitioner while pressing for grant of regular bail to the petitioner.

3. Mr. Atul Lakhanpal, Senior Advocate appearing on behalf of the complainant vehemently contends that the instant case is not pertaining to the agreement to sell but on account of forgery and fabrication of the registered sale deed itself, which is pertaining to the year 1981.

4. In the light of above, Mr. Lakhanpal, Senior counsel further asserts that it would be unjust to grant regular bail to the petitioner wherein the petitioner has antecedents of such criminal nature being involved in other FIRs as well, which are FIR No.7, dated 18.05.2017, under Sections 420, 467, 468, 120-B IPC and Section 13(1) D read with Section 3(2) of PC Act, Police Station Vigilance, FIR No.242, dated 17.10.2021, under Sections 420, 465, 467, 468, 471 and 120-B IPC, Police Station Kotwali Nabha and FIR No.19, dated 05.03.2022, under Sections 420, 467, 468, 471 and 120-B IPC, registered at Police Station Kotwali Nabha.

5. In those cases, the petitioner is on regular bail and on anticipatory bail and civil suit for specific performance is also pending in one of the FIR.

6. Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He on instructions from ASI Ripan Kumar, submits that it is a case of fabrication and forgery of the official document i.e. sale deed registered with the office of Registrar Sales and an amount of Rs.25 lacs is involved in the transaction via agreement to sell which alleged to have been executed by the father of the complainant. He further asserts that the petitioner is involved in number of

cases of similar nature and on that ground, he seeks dismissal of the instant petition.

7. Be that as it may, however, this Court cannot ignore the fact that the petitioner has already suffered incarceration for a period of 02 years, 02 months and 21 days, wherein charges were framed on 18.10.2023 and out of total 11 prosecution witnesses, none has been examined till date, which is suffice enough to infer for this Court that conclusion of trial will take long time.

8. This Court is sanguine of the fact that according to the proposition settled by the Apex Court in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “*bail is a rule*” and “*jail is an exception*”.

9. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions

in all probability would lend the petitioner in a situation of denial of the concession of bail.

10. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

11. In the afore-said terms, the present petition is hereby allowed.

12. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

21.02.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No