

2024:PHHC:079278



**201 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-24999-2024
DATE OF DECISION: 31.05.2024**

MAANTA

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Pankaj Nanhera, Advocate and
Mr. Rahul Gautam, Advocate for the petitioner.
Mr. Chetan Sharma, DAG, Haryana.
Mr. Suresh Kumar Kaushik, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

This petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No. 71 dated 20.01.2018 (Annexure P-1) under Section 420, 467, 468, 471, 119, 120B, 166, 176, 177, 179, 187, 34, 35, 188, 202, 403, 406, 417, 418, 423, 426, 453, 464, 471, 477, 477A, 203, 206, 207, 424 Indian Penal Code registered at Police Station Sadar Hisar, District Hisar, Haryana.

2. Learned counsel for the petitioner contends that there is no direct role attributed to the present petitioner regarding alleged benefit of transfer of plots in question which vest with the Shanti Cooperative House Building Society Limited.

3. In pursuance to the last order dated 28.05.2024, reply by way of affidavit of Gaurav Sharma, HPS, Deputy Superintendent of Police, Barwala has

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been filed on behalf of respondent No.1, the same is taken on record.

Copy has been supplied to the learned counsel for the petitioner.

4. Reliance has been placed upon disclosure statement of accused-Naresh and a letter dated 23.07.2015 issued by Assistant Registrar, Co-operative Societies, Hisar written to the Circle Inspector, Co-operative Societies, Hisar directing the Cooperative Housing Society that transfer of shares of members at the level of the committee itself is completely illegal and on that account various complaints from the members at the committee level have been received by the department and it was directed through the circular. The attention of this Court has been drawn to the fact that it was directed that to complete the share transfer cases of the members and any request, if received, should be with the approval of this office so that fraud being committed can be curbed and in that endeavour it was desired that if share of the committee members are transferred without approval of the office of the department, then departmental disciplinary action will be taken against the Inspector/sub-Inspector and further action will be taken as per merit. It is in compliance of the aforesaid circular referred by the State Counsel that the instant FIR has been lodged against the present petitioner attributing the role of dereliction in duty as to why multiple transfers of same property has taken place against necessary approval of office of Assistant Registrar, Hisar.

5. This Court is sanguine of the fact that transfer of shares in a co-operative society which is a body corporate and independent private

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body merely registered under Housing Co-operative Societies Act, has no deep and pervasive control of the State Government over it and Assistant Registrar Co-operative Societies, Haryana or the Inspector has no business to interfere in the day to day functioning of the societies, however, there is no mechanism in case such dispute arises defined in the Act itself by Section 27, if any resolution is found to be contrary and welfare of the society. Apart from that, Section 102 wherein in the dispute like involved in the instant FIR is concerned arbitration proceedings can be conducted on an application of even *suo moto* by the Registrar, Cooperative Societies, Haryana to adjudicate.

6. In light of the above, this FIR in itself seems to be prima facie against the provisions of the said Act which provides mechanism for running the housing building cooperative societies which are by nomenclature run independent and private bodies being self financed having given control by either ways over it. The petitioner cannot made liable for any such irregularity, if any, at all committed within the working of the society. Even otherwise, Section 25 of the aforesaid Act, the Managing Committee is unanswerable and unaccountable to the general body of the said society which is final authority to approve or disapprove any decision taken by the managing committee.

7. However, it seems apparent on record that the State or its departmental administration concerned has not given a proper thought before initiating criminal proceedings against its own officer.



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8. Without advertng further into the merits of the case, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.
10. The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

31.05.2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>